

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

...  
**Order reserved on: 13.05.2015**

**ORIGINAL APPLICATION NO. 060/00691/2014**  
**Chandigarh, this the 15<sup>th</sup> day of May, 2015**

...  
**CORAM: HON'BLE MS. RAJWANT SANDHU, MEMBER (A)**  
**HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J)**  
...

1. Ranbir Chander son of late Shri S.P. Vasudeva, aged 47 years, Office of Regional Director for Health and Family Welfare, Govt. of India, 4<sup>th</sup> Floor, Kendriya Sadan, Sector 9, Chandigarh-160009.
2. Neelam Rani daughter of late Shri Ram Narain
3. Gurmukh Singh son of Shri Pritam Singh
4. Pushkar Singh son of Shri Jodha Singh
5. Smt. Sunehri Devi daughter of late Shri Inder Singh
6. Balbir Chand son of late Shri Babu Ram

(Applicants 2 to 6 are working in Office of Regional Director for Health and Family Welfare, Govt. of India, 4<sup>th</sup> Floor, Kendriya Sadan, Sector 9, Chandigarh-160009.)

...APPLICANTS

BY ADVOCATE: SHRI ROHIT SETH

VERSUS

1. Union of India through the Secretary to the Government of India, Ministry of Health & Family Welfare (National Vector Borne Disease Control Programme), Directorate General of Health Services, New Delhi-110011.

2. The Director, National Vector Borne Disease Control Programme, 22, Sham Nath Marg, Delhi-110054.
3. Administrative Officer, Ministry of Health & Family Welfare (National Vector Borne Disease Control Programme), Directorate General of Health Services, 22, Shamnath Marg, Delhi-110054.
4. Sr. Regional Director I/C, Government of India, Ministry of Health & Family Welfare, Regional Office for Health & Family Welfare, 4<sup>th</sup> Floor, Kendriya Sadan, Sector 9, Chandigarh-160009.

...RESPONDENTS

BY ADVOCATE: SHRI B.B. SHARMA

**ORDER**

**HON'BLE DR. BRAHM A. AGRAWAL, MEMBER(J):-**

The instant O.A. has been filed by the six applicants praying that the order dated 11.08.2014 (Annexure A-1) effecting recoveries of the amounts already paid to them under the MACP Scheme, to which they were held not entitled, vide our Order dated 24.04.2014 in the same applicants' O.A. No. 525-CH-2013 (Annexure A-15), be quashed. It is averred that the said order (Annexure A-1) has been made without giving any notice to the applicants, in violation of the principles of natural justice, as also in violation of the law as settled by the hon'ble Supreme Court.

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2. We have heard the learned counsel for the parties, perused the pleadings as well as the judgments cited at the Bar, and given our thoughtful consideration to the matter.

3. In State of Punjab Vs. Rafiq Masih [2014 (14) SCALE 300], the hon'ble Supreme Court, in the matter of recovery from employee, held, inter alia, as under:

"12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee,

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would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.

4. In the light of the above, we direct the respondents to reconsider the case of the applicants, and if it is found that they have not been guilty of furnishing any incorrect information or fraud or misrepresentation and that their case falls within any of the first four categories delineated in the aforesaid judgment of the hon'ble Supreme Court, the impugned order (Annexure A-1) be not given effect. The applicants shall be given prior notice before any view against them is formed.

5. The O.A. is disposed of with the above directions. No order as to costs.

*B. A. AgRawal*  
(DR. BRAHM A. AGRAWAL)  
MEMBER(J)

*Rs —*  
(RAJWANT SANDHU)  
MEMBER(A)

**Dated: 15 .05.2015**

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