

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**OA NO.691/2017
MA NO.729/2017**

New Delhi this the 10th day of October, 2017

HON'BLE SHRI K.N. SHRIVASTAVA, MEMBER (A)

Gurnam Singh,
S/o Late Sh. Ajit Singh,
R/o 24, Goodwill Apartments,
Sector-13, Rohini,
Delhi-110085

Aged about 62 years
Group – C
Retired Pharmacist
From Delhi Administration Dispensary,
Sector-13, Rohini - Applicant

(By Advocate: Shri Sourabh Ahuja)

Versus

1. Govt. of NCT of Delhi
Through its Chief Secretary,
Delhi Sachivalaya
Players Building, New Delhi
2. Secretary/Principal Secretary,
Health & Family Welfare,
Department of Health & Family Welfare,
GNCT of Delhi
9th Level, A- Wing, IP Extension,
Delhi Secretariat, Delhi-110002
3. CDMO (North-West District)
Delhi Health Service (GNCT of Delhi)
DGD Building Complex,
Sector 13, Rohini,
Delhi-110085

4. Pay and Account Officer,
PAO-VII,
GNCT of Delhi,
Peeragarhi, Delhi
 5. Director,
Department of Health Service,
GNCT of Delhi
F-17, Karkardooma, Delhi
 6. Finance Secretary,
GNCT of Delhi
4th Level, A-Wing,
IP Estate, New Delhi
- Respondents

(By Advocate: Mr. Amit Anand)

ORDER (Oral)

MA No.729/2017 seeking condonation of delay in filing the OA is allowed for the reasons recorded therein.

2. The applicant was working as Pharmacist with the respondent no.2 - Department of Health and Family Welfare. He retired from service on 31.07.2015 on attaining the age of superannuation. He had joined the department on 26.10.1976 and he was drawing pay scale equivalent to PB-1 plus Grade Pay of Rs.2800/- under the 6th CPC. Apparently, he was granted Non-Functional Selection Grade (NFSG) in the Grade Pay of Rs.4200/- on completion of two years of service and, thereafter, was granted benefits of 2nd and 3rd financial upgradations under the MACP Scheme in the Grade Pay of Rs.4600/-

and Rs.4800/- respectively. The Fast Track Committee of respondent no.2 recommended Grade Pay of Rs.4600/- and Rs.4800/- for the Pharmacist for 2nd and 3rd financial upgradations under the MACP Scheme. The said recommendation of Fast Track Committee was implemented by respondent no.2 vide letter dated 20.09.2013 (Annexure R-1 colly) in all its Hospitals and Medical Institutions. This entailed in the recovery of Rs.3,76,332/- from the applicant. Accordingly, the respondents deducted this amount from the service gratuity of the applicant at the time of his retirement vide impugned Annexure A-1 order dated 17.07.2015. The applicant had made representation to the respondents on 01.06.2015 which has been rejected by them vide Annexure A-2 order dated 05.08.2015, which is impugned in this OA. The applicant has further submitted three pending representations subsequently, copies of which are at page nos.18, 19 and 20.

3. The present OA has been filed impugning the Annexure A-1 and Annexure A-2 orders and seeking, *inter alia*, the following reliefs:

"a. Quash and set aside the orders dated 17.07.2015 and 05/08/2015 and further accord

all the consequential benefits to the Applicant,
And

b. Direct the respondents to refund an amount of Rs.3,76,332/- (Rupees Three Lacs Seventy Six Thousand Three Hundred and Thirty Two only) along with interest @18% per annum along with all the consequential benefits (i.e. re-fixation of pay/pension grant of arrears etc.)"

4. Shri Sourabh Ahuja, learned counsel for the applicant, submitted that this Tribunal has decided two identical cases bearing OA Nos.98/2015 (Som Parkash Vs. GNCTD) and 2083/2015 (Jai Singh Jain Vs. GNCTD) vide orders dated 26.11.2015 and 20.08.2016 respectively. The Tribunal, placing reliance on the judgment of Hon'ble Supreme Court in **State of Punjab v. Rafiq Masih (White Washer) etc.** (2014)8 SCC 883, directed to respondents to refund the amount recovered from the applicants in those OAs. It was further submitted that both the orders of the Tribunal have already been implemented by the respondents. Shri Ahuja draw my attention to Annexure A-11 (page 111) which is a sanction order issued by the respondents implementing the judgment of the Tribunal in Jai Singh Jain (supra). Shri Ahuja further submitted that the Tribunal, vide order dated 10.02.2017, had disposed of an identical OA bearing No.500/2017 (**Sushil Kumar**

Gulati Vs. GNCTD) at the admission stage itself without going into the merits of the case, by directing the respondents to consider the representation of the applicant and to pass appropriate speaking and reasoned orders. It is further observed in the order of the Tribunal that in case the applicant is found to be identical to the applicant in OA No.98/2015 (Som Prakash Vs. GNCTD), then similar relief may be granted to the applicant therein. Shri Ahuja thus argued that this OA may also be disposed of on the similar lines with a direction to the respondents to decide the aforesaid three pending representations of the applicant.

5. Shri Amit Anand, learned counsel for the respondents, submitted that he has no objection if such a direction is issued to the respondents, in view of the fact that such a direction has already been issued in OA No.500/2017 vide order dated 10.02.2017.

6. In view of the submissions made, this OA is disposed of in terms of the following directions to the respondents :-

- i) Respondents no.3 and 5 are directed to decide three pending representations of the applicant

(Annexure A-3 colly) within a period of three months from the date of receipt of a copy of this order by passing a reasoned and speaking order;

- ii) Respondents no.3 and 5 are further directed to examine as to whether the case of the applicant is similar to those of Som Parkash and Jai Singh Jain and if they find that this case is similar to those cases, then they should grant same relief has been granted to those persons;
- iii) In case, respondents no.3 and 5 come to a decision that the amount of Rs.3,76,332/- already recovered from the applicant is required to be refunded, then this amount shall be refunded to him within one month from the date of passing of the said order, as per (ii) above.

No order as to costs.

(K.N. Shrivastava)
Member (A)

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