

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

OA NO.233/2017

NEW DELHI THIS THE 24TH DAY OF AUGUST, 2018

HON'BLE MR. ASHISH KALIA, MEMBER (J)

Dr. M.L. Mathur (PGT)
 Aged about 46 years,
 S/o Sh. Ram Kishore Singh,
 R/o H.No.474, Sector-3, Vasundhra,
 Ghaziabad (UP),
 Working as (PGT), Sarvodaya Bal
 Vidyalaya, Rouse Avenue,
 DDU Marg, New Delhi. ...Applicant

(By advocate: Mr. Lalta Prasad)

VERSUS

1. Govt. of NCT of Delhi
 Through Chief Secretary,
 Player Building, ITO,
 New Delhi.
2. Director,
 Directorate of Education,
 Govt. of NCT of Delhi,
 Old Secretariat Delhi.
3. Principal,
 Sarvodaya Bal Vidyalaya,
 Rouse Avenue, DDU Marg,
 New Delhi. ...Respondents

(By advocate: Mr. Vijay Pandita)

:ORDER (ORAL):

The applicant has filed the present OA seeking the following reliefs:

“(a) quash and set aside the impugned order dated 16.6.2016 and 28.8.2016 passed by Head of School.

- (b) quash and set aside the order Memo No.07 dated 13.4.2016 passed by Directorate of Audit GNCT of Delhi Party No.XX.
 - (c) direct to respondents to restore the earlier pay as paid before the months of Aug., 2016.
 - (d) direct to respondents refund the recover amount from pay from Aug., 2016 to till date with the delay interest on 18% PM.
2. The grievance of the applicant herein is that after more than 12 years the respondents suddenly passed the orders Annexure A-1 and Annexure A-2 whereby recovery of Rs.1,05,764/- is ordered stating wrong fixation of pay by the respondents and is relying on the judgment passed by the Hon'ble Apex Court in **Syed Abdul Qadir & Ors. Versus State of Bihar & Ors.** 2009 (3) SLJ SC 38. The learned counsel for the applicant has also relied upon the DOP&T' OM dated 02.03.2016 whereby the recovery of wrongful/excess payments made to a Government servant is impermissible in law.
3. The learned counsel for the respondents has drawn my attention to the reply wherein it is stated that mistake occurred while fixing his pay on his promotion actually should have been fixed at Rs.7300/- but was wrongly fixed at Rs.7500/-.
4. Heard learned counsel for the parties and perused the records.

5. I am of the considered view that the recovery cannot be made from the applicant in view of Rafiq Masih's case and is applicable in the present OA.

6. OA is disposed of accordingly. No costs.

**(ASHISH KALIA)
MEMBER (J)**

/jk/