

**Central Administrative Tribunal  
Principal Bench**

**OA No.3899/2017**

New Delhi, this the 27<sup>th</sup> day of July, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman  
Hon'ble Ms. Aradhana Johri, Member (A)**

Dr. S.S. Khanka, S/o Late Sh. Sher Singh Khanka  
R/o Plot No.99, Flat No.28  
Anamika Apartment  
IP Extension, Patparganj  
East Delhi-110092.  
Group 'A' Post of Professor. .... Applicant

(By Advocates: Shri R.V. Sinha, Shri A.S. Singh, Shri  
Amit Sinha and Shri Vaibhav Partap Singh)

Vs.

1. The National Institute of  
Financial Management  
Sec-48, Pali Road  
Faridabad-121001, Haryana  
(Through: Director)
2. Union of India, Ministry of Finance  
Department of Expenditure  
North Block, New Delhi-110001.  
(Through Secretary). ...Respondents

(By Advocates: Shri Rajinder Nischal and Shri L.C.  
Singhi)

**ORDER (ORAL)**

**Justice L. Narasimha Reddy, Chairman:-**

The applicant joined the service of National  
Institute of Financial Management. Earlier he was with  
the Tezpur University as Professor. He attained the age

of superannuation on 31.05.2016 and retired from service of respondent No.1, i.e., National Institute of Financial Management. Soon after his retirement the first respondents issued an order dated 28.12.2016 proposing to recover a sum of Rs.32,81,000/- from out of his pension. The said order is challenged in this OA.

2. The applicant contends that the order was passed without issuing any show cause notice and as a matter of fact, the show cause notice was issued six months later, i.e., on 06.07.2017 (Annexure A-15), and that he submitted a reply thereto (Annexure A-16) through his advocate on 29.07.2017.

3. No counter affidavit is filed by the respondents. However, the matter is argued on merits.

4. Heard Shri R.V. Sinha, learned counsel for the applicant and Shri Rajinder Nischal and Shri L.C. Singhi, learned counsel for the respondents.

5. It is rather surprising that an autonomous institute under the Ministry of Finance, Government of India not followed the correct procedure of law in the context of making recovery. In case the first respondent was of the view that any amount is liable to the recovered

from the applicant, they were under the obligation to issue show cause notice, and then to pass the order, after hearing from the applicant. The impugned order dated 28.12.2016 was passed without issuing any show cause notice. Curiously, seven months thereafter, the show cause notice was issued proposing to recover the very amount. It is a case of putting the first thing later and doing the last thing first. In substance, it is one of non application of mind.

6. We, therefore, allow this OA and set aside the order dated 28.12.2016, as violative of the principles of natural justice. Now that the respondents have already issued a show cause notice dated 06.07.2017, and reply thereto has been filed by the applicant, it is left open to the first respondent to pass an order regarding recovery, duly taking into consideration, the points urged by the applicant in his reply. This exercise shall be completed within a period of three months from the date of receipt of copy of this order. There shall be no order as to costs.

**(Aradhana Johri)**  
**Member(A)**

**(Justice L. Narasimha Reddy)**  
**Chairman**

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