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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 3835/2026, CM APPL. 18736/2026

RICHA AWASTHY .....Petitioner

Through: Mr. Tushar Ranjan Mohanty, Mr. Naveen Kumar Vashisht, Mr. R. Sanyal, Ms. Yogita Sharma, Mr. Vishal Sharma, Advocates.

versus

DR B R AMBEDKAR UNIVERSITY .....Respondent

Through: Mr. Mohinder Rupal, Mr. Hardik Rupal, Ms. Aishwarya Malhotra, Ms. Tripta Sharma, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **25.03.2026**

W.P.(C) 3835/2026, CM APPL. 18735/2026 (for interim relief)

1. The captioned writ petition is directed against Office Order as well as Rejection Letter dated 6th November, 2025, issued by Dr. B.R. Ambedkar University Delhi/Respondent, seeking to refix the Petitioner's pay and to recover the alleged excess payments made to her in the past.

2. Counsel for the Petitioner submits that recovery is impermissible where the excess payment has been made for a period exceeding five years prior to the issuance of the order of recovery; where such payment was not the result of any misrepresentation or fraud on the part of the employee; and where the excess payment has arisen due to the employer applying an incorrect principle for calculating pay or allowances, or on account of a

particular interpretation of a rule or order which is subsequently found to be erroneous. Reliance is placed on the judgements of the Supreme Court in ***State of Punjab and Ors v. Rafiq Maish (white washer) and Ors.***[1] and ***Thomas Daniel v. State of Kerala and Ors.***[2]

3. Paragraph No. 18 of ***Rafiq Maish*** stipulates certain situations where recovery by the employer would be impermissible, to the following effect:

> *"18. 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 the employees belonging to Class III and Class IV service (or Group C and Group D service).*
> *(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.*
> ***(iii) Recovery from the 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, 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 present case, the payments in question were made to the Petitioner from 8th April, 2016, whereas recovery is sought to be effected under the impugned Office Order dated 6th November, 2025. The case, therefore, *prima facie* appears to fall within the situation contemplated under Paragraph No. 18(iii) of ***Rafiq Maish***.

5. Accordingly, it is directed that no further recovery shall be effected

[1] (2015) 4 SCC 334.

from the salary of the Petitioner pursuant to the impugned Office Order dated 6th November, 2025, till the next date of hearing.

6. Issue notice. Mr. Mohinder J.S. Rupal, counsel accepts notice on behalf of Respondent No. 1. Let counter affidavit be filed within six weeks from today. Rejoinder thereto, if any, be filed within four weeks thereafter.

7. Re-notify on 4th August, 2026.

SANJEEV NARULA, J

MARCH 25, 2026
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[2] (2022) SCC Online SC 536.