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

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Date of Order : April 02, 2018

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W.P.(C) 1550/2017 & CM No.6973/2017

SUDHA SAXENA

..... Petitioner

Through: Mr.Amit Anand and Mr.Gaurav Sarawat,
Advocates

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr.Bhagwan Swarup Shukla, CGSC and
Mr.Suraj Kumar, Advocate for R-1
Mr.Yashpal Singh and Ms.Atryee Gautam,
Advocates for R-2 to R-4

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

(ORAL)

1. On basis of an audit objection, respondent has re-fixed petitioner's pension vide impugned order of 28th December, 2016 (*Annexure P-2*) and had initiated to recover the excess payment made. While entertaining this writ petition vide order of 20th February, 2017, respondent was restrained from recovering the excess payment made. In the counter affidavit filed by respondent, it is asserted that no show cause notice is required to be given to petitioner as the impugned order is a corrective measure and has no penal consequences.

2. Learned counsel for petitioner places reliance upon a Supreme Court's decision in *Bhagwan Shukla S/o Sh.Sarabjit Shukla Vs. Union of India & Ors.* JT 1994(5) SC 253 and a decision of a Division Bench of Telangana and Andhra Pradesh High Court in *V.Kannaiah Vs. The*

Commandant SAR CPL, Amberpet, Hyderabad & Ors. 2017(6) SLR 603 Telan. & A.P.) to submit that even in a case entailing civil consequences, opportunity to show cause ought to be given before reducing the pension. Learned counsel for respondent places reliance upon an order of 8th January, 2018 of this Court in W.P.(C) No.157/2018 in *Anil Kumar Vs. Delhi Public Library & Ors.* to submit that in a similar case, permission to make a representation has been granted and till the said representation is decided and its fate is conveyed, it has been ordered that no coercive steps be taken against petitioner therein.

3. Upon hearing and on perusal of the material on record, I find that the impugned order of 28th December, 2016 (*Annexure P-2*) needs to be reconsidered by the Director of Delhi Public Library in view of the decisions in *Bhagwan Shukla* (supra) and *V.Kannaiah* (supra) after granting an opportunity of hearing to petitioner. Let a fresh order be passed by Director of Delhi Public Library within a period of 12 weeks, so that petitioner may avail of the remedies as available in law, if need be.

4. In view of the dictum of Supreme Court in *State of Punjab & Ors. Vs. Rafiq Mashi (White Washer) & Ors.* (2015) 4 SCC 334, no recovery be made from petitioner till impugned order is substituted by a fresh order after according an opportunity of hearing to petitioner.

5. With aforesaid directions, this petition and application are disposed of.

(SUNIL GAUR)
JUDGE

APRIL 02, 2018

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