

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

Date of Order: March 14, 2018

+ **W.P.(C) 3920/2005**

SUCHETA NEGIPetitioner
Through: Mr. Harish Kumar Mehta,
Advocate

versus

UOI & ORS.Respondents
Through: Mr. Jagat Singh and Mr. Aashish
Kumar Singh, Advocates

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Impugned order of 2nd December, 2004 directs recovery of ₹12,183/- from petitioner as she was paid the said amount as deputation allowance in excess and the said recovery was sought to be made from October, 2004 till March, 2005. Petitioner has also sought in this petition payment of Central Dearness Allowance @ 65% and also payment of Deputation Allowance of ₹1,000/- per month.
2. It is the case of petitioner that while proceeding on deputation, she had sought protection of her pay alongwith deputation allowance and other allowances as payable to the employees of respondent-Corporation. Though it is case of petitioner that the protection of existing pay and deputation allowance does not exceed the maximum of the scale of

deputation post, but it is not so averred in the writ petition. As per the Rules governing deputation (*Annexure R-1 to the counter affidavit of respondent No.1*), pay protection with allowance cannot exceed the maximum of the scale of the deputation post. So far as payment of Central Dearness Allowance @ 65% is concerned, there is no representation by petitioner to respondent-Corporation. However, petitioner vide letter of 29th October, 2004 (*Annexure-E*) had sought release of two increments, which were due to her in her parent organization alongwith Central Dearness Allowance, but in the said Communication, Central Deputation Allowance has not been sought.

3. In the counter affidavit filed by respondent-Corporation, there is bald denial of the averments made by petitioner in the writ petition. The Rules governing deputation are enclosed as *Annexure R-1* with the counter affidavit of respondent No.1 and its perusal reveals that in a case where basic pay of deputationist exceeds the maximum of the scale of pay of a deputation post, then in such a case, the deputation period is restricted to maximum of six months and thereafter, the deputationist has to be reverted to the parent department. There is no worthwhile explanation in the counter affidavit filed to petitioner's claim for payment of two increments, which she had earned in her parent department during the period of deputation, nor is there any justification to deduct excess payment made under the deputation allowance.

4. Since the pleadings in the writ petition are also deficient, therefore, it is deemed appropriate to dispose of this petition with permission to petitioner to file a concise representation to respondent-Corporation

within a period of four weeks from today. Upon receipt of such a Representation, respondent-Corporation shall pass a speaking order thereon within a period of twelve weeks and the fate of the Representation be made known to petitioner a week thereafter, so that petitioner may avail of the remedies as available in law, if need be.

5. With aforesaid directions, this petition is disposed of.

(SUNIL GAUR)
JUDGE

MARCH 14, 2018

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