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

+ LPA 711/2016

VAIJANTI MALA

..... Appellant

Through: Mr. Rakesh Dhingra, Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Sanjib K. Mohanty, Sr. Panel
Central Govt. Counsel for R-1 & 4.
Mr. R.S. Mathur, Adv. for R-2 & 3.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **01.02.2018**

CM APPL. 46897/2016 (*for condonation of delay*)

For the reasons mentioned in the application, the delay in filing the present appeal is hereby condoned.

Application stands disposed of.

LPA 711/2016 and CM APPL. 46898/2016 (*for stay*)

The appellant's grievance is that the amount of the family pension, which was being paid to her upon the demise of her husband Mr. Dharam Singh, had ceased. She therefore sought directions from the respondents i.e. Union of India (her husband's employer) and the Central Bank i.e. the pension disbursing authority. The learned Single Judge upon his appreciation of the material was of the opinion that the dispute was with respect to the accuracy of payments and could not be adjudicated in writ proceedings.

The counter-affidavit of the Union of India especially discloses that the family pension fixed in terms of the Sixth Pay Commission's recommendations w.e.f. 01.01.2006 was revised downwards to

Rs.5221/- p.m. w.e.f. 09.10.2007 through orders dated 23.08.2012 and then to Rs.5625/- w.e.f. 09.10.2007 through orders dated 07.10.2015. It is therefore clear that the bank's contention that it merely followed the Central Government's dictate and did not make the payout on account of alleged excess payment, could not have ended the matter. As to whether the downward revision was preceded by appropriate notice and following the procedure prescribed by the rules and in accordance with the fair procedure was not gone into by the learned Single Judge. The Union of India is also silent as to whether any such formality was followed.

In these circumstances, the impugned order is hereby set aside. The matter is remitted for fresh consideration to the learned Single Judge, who shall re-examine the plea of the parties in the light of the settled position of law that any adverse revision of pay, salary or pension can be valid, if preceded by due opportunity and for reasonable cause.

The appeal is allowed in the above terms. Pending application stands disposed of accordingly.

Parties shall be present before the concerned Single Judge according to the Roster allocation on 13th February, 2018.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

FEBRUARY 01, 2018

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