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

+ W.P.(C) 8548/2019

KENDRIYA VIDYALAYA SANGATHAN Petitioner

Through: Mr. U.N. Singh, Advocate.

versus

SHRI AJAY KUMAR GANGAL AND ORS. Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

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07.08.2019

CM APPL. 35364/2019

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 8548/2019 and CM APPL. 35363/2019

The petitioner assails the order dated 05.10.2018 passed by Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 4150/2017. The said Original Application had been preferred by the respondent No.1. The respondent No. 1 was aggrieved by the downward revision of the family pension by the petitioner. The Tribunal held that the downward revision was justified. However, the Tribunal held that since the respondent No.1 had no role to play in the wrong fixation of the family pension, no recovery could be made from him. Consequently, the Tribunal

directed that no recovery would be made from him and the amount already recovered would be refunded to him within a period of two months from the date of receipt of the copy of the order.

The submission of learned counsel for the petitioner is that so far as the direction issued for refund of the amount already recovered is concerned, the same was not justified considering the fact that the Tribunal has not interfered with the downward revision of the family pension.

In view of the fact that the respondent No.1 had no role to play in the matter of wrong fixation of the family pension in the first place and the fact that the petitioner had itself paid the wrongly fixed family pension to the respondent No.1, we are not inclined to interfere with the impugned order. On a query, learned counsel for the petitioner states that the amount directed to be refunded is to the tune of Rs. 30,000-40,000/-. The respondent No.1 being the husband of the deceased government servant, it would not be fair to permit the petitioner to make any recovery upon downward revision of the family pension. We are, therefore, not inclined to interfere with the impugned order in exercise of our discretionary jurisdiction under Article 226 of the Constitution of India.

Dismissed.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

AUGUST 07, 2019

B.S. Rohella