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

% ***Date of decision: February 15, 2023***

+ **W.P.(C) 1939/2023 & CM. APPL.7367/2023**

SMT RAJESH

..... Petitioner

Through: **Ms. Gurpreet Kaur, Advocate**

versus

UNION OF INDIA AND ORS

.... Respondents

Through: **Mr. J.K. Tripathi, Advocate with
Major Partho Katyayan**

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. Vide the present writ petition, petitioner is seeking directions to respondents to grant the payment of family pension in her favour.
2. Learned counsel for respondents, who is appearing on advance notice, has drawn the attention of this Court to para 5 of order dated 02.07.2007 passed by a Co-ordinate Bench of this Court. The said para is reproduced as under:

“5. In the circumstances, therefore, and keeping in view the submissions made at the bar, we see no reason why the respondents should not examine and expeditiously process the claim for payment of family pension in favour of petitioner no. 1 who is the lawfully married wife of the deceased Subedar Bani Singh. Insofar as the claim made by petitioner no. 2 is concerned, Mr. Kauntao counsel appearing for the said petitioner fairly conceded that since

a question mark has been put on the legitimacy of the second marriage, the claim made by her for payment of pension may be taken as not pressed. He, however, sought liberty for petitioner no. 2 to make a claim on behalf of her minor children for grant of pensionary benefits which claim, the respondents shall examine and suitably dispose of in accordance with the Rules and Regulations. The needful shall be done expeditiously but not later than four months from the date a representation is made to the Principal Controller of Defence Accounts through Officer-in-charge Records, Jat Regiment. Representation to be made within four weeks from today.”

3. Since the petitioner has already foregone all her claims in the said petition, therefore, the present petition is not maintainable.
4. Learned counsel for respondents has also drawn the attention of this Court to the fact that pursuant to order dated 02.07.2007, the children of the petitioner got pension along with the first wife of deceased Subedar Bani Singh.
5. Accordingly, since petitioner was not entitled for family pension, as was admitted in order dated 02.07.2007, and she had foregone her claims, therefore, the present petition is not maintainable.
6. Accordingly, the present petition along with pending application is dismissed.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

FEBRUARY 15, 2023/rk

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