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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 27th April, 2023

+ W.P.(C) 5434/2023

KALPNA

..... Petitioner

Through: Mr. Ankur Chhibber, Mr. Anshuman Mehrotra, Mr. H.S. tiwari, Mr. Nikunj Arora, Mr. Arjun Panwar, Mr. Shivam Rai and Ms. Samridhi Bhatt, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Vardhman Kaushikm Mr. Nishant Gautam, Mr. Dhruv Joshi, Mr. Hardik Bedi, Ms. Sanjana Mehrotra and Mr. Vinay Kaushik, Advocates for R-1 to R-4.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

CM APPL. 21273/2023 (Seeking Exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

W.P.(C) 5434/2023 & CM APPL. 21272/2023

3. A Writ Petition under Article 226 of the Constitution of India has been filed by the petitioner seeking following reliefs :

“(i) Issue a Writ of Certiorari to Quash the order dated 14.09.2022 hereby the Respondents stopped grant

of Dearness Relief over Petitioner's Pro-Rata Pension and also directed recovery of the Dearness Relief already paid;

(ii) Issue a Writ of Mandamus for Issuing directions to the respondents to grant dearness relief on top of the petitioner's pension and to return the amount of dearness relief wrongly recovered from the petitioner on the frivolous pretext of dearness relief being wrongly paid to the petitioner; and

(iii) Pass any such orders as the Hon'ble Court may deem fit in the light of above mentioned facts and circumstances of the case."

4. Learned counsel for the respondent appearing on advance Notice has not disputed the facts that the impugned Order dated 14.09.2022 has been issued without issuing the Show Cause Notice to the petitioner.

5. Similar issue came up before this Court in W.P (C) No.4295/2011 and the impugned Order was set aside vide Order dated 14.07.2011 by directing the respondents to issue Show Cause Notice to the petitioner and thereafter to take action as per law.

6. In view of the above, we hereby dispose of the present petition by setting aside the Order dated 14.09.2022 and direct the respondents to issue Show Cause Notice to the petitioner and after seeking the reply and personal hearing of the petitioner, the final decision shall be taken by the respondents.

7. We hereby make it clear that if the respondents are of the view that the recovery is not to be effected from the petitioner, then the amount already recovered shall be returned to the petitioner with interest @ 6% per annum from the date of recovery till the date of realization.

8. Needless to the say if the petitioner is still aggrieved by the decision of the respondents, she may seek the remedy before the appropriate Forum.
9. The petition is disposed of accordingly.
10. The pending applications, if any, also stands disposed of.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

APRIL 27, 2023/va

