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

\+ W.P.(C) 9590/2024

MRS. SARITA BAKHSHI .....Petitioner

Through: Mr. Amish Tandon and Ms. Anushree Kulkarni, Advocates.

versus

HANSRAJ COLLEGE & ANR. .....Respondents

Through: Mr. Rajesh Gogna, Advocate for Respondent No.1.
Mr. Mohinder JS Rupal and Mr. Hardik Rupal, Advocates for R-2.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

O R D E R

% **16.07.2024**

CM APPL. No. 39370/2024 (Exemption)

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

W.P.(C) 9590/2024 & CM APPL. No. 39371/2024 (Stay)

3. This writ petition has been preferred on behalf of the Petitioner under Articles 226 and 227 of the Constitution of India seeking the following reliefs:-

> *"a) Issue a Writ of Mandamus or any other appropriate writ, order or direction directing the Respondents to reverse (and pay to the Petitioner) all pensionary sums deducted by the Respondents for the period October 2023 to June 2024 and in past.*
>
> *b) Issue a writ of Mandamus or any other appropriate writ, order or direction directing the Respondents to refrain from making any deductions from the pensionary benefits of the Petitioner under the applicable family pension scheme, in the future.*
>
> *c) Issue a writ of Mandamus or any other appropriate writ, order or direction directing the Respondents to forthwith clear any arrears of the Petitioner under the applicable family pension scheme."*

4. As per the averments in the petition, Petitioner retired on 31.07.2016 from the post of Reader in Aurobindo College. Her husband, late Dr. G.C. Bakhshi was holding the post of Reader at Hansraj College, Delhi University at the time of his demise on 29.03.2002. Petitioner's husband was a subscriber to the Family Pension Scheme and therefore, on his death, Petitioner, being the surviving spouse, became entitled to receive the family pension. Petitioner avers that Respondent No.1/Hansraj College suddenly stopped the payment of pension from October, 2023 onwards, without any prior intimation or notice. On making enquiries from the office of Respondent No.1, Petitioner was orally informed that there was some excess payment for the period 2012 to 2015 and therefore, the process was initiated to recover the alleged excess payments *albeit* no further details were revealed.

5. Learned counsel for the Petitioner submits that it is not known as to on what basis Respondent No.1 has stopped the disbursal of monthly pension and/or is seeking to recover the past payments. Several representations made in this behalf have been unanswered and are pending before Respondent No.1. Recently also, Petitioner has made representation on 23.05.2024 to Respondent No.1 followed by a reminder on 06.06.2024, requesting disbursement of monthly pension and release of amounts illegally recovered as well as to stop further recoveries and also seeking reasons and details for withholding the pension, but to no avail. It is urged that even in law, it is impermissible for Respondent No.1 to make any such recoveries, in view of the judgment of the Supreme Court in ***State of Punjab and Others v. Rafiq Masih, (2015) 4 SCC 334.***

6. Issue notice.

7. Mr. Rajesh Gogna, learned counsel accepts notice on behalf of Respondent No.1.

8. Mr. Mohinder JS Rupal, learned counsel accepts notice on behalf of Respondent No. 2.

9. Having heard counsels for the respective parties and on perusal of the documents placed on record, which are the bank statements of the Petitioner reflecting recoveries and representations, this Court is unable to fathom the reason why Respondent No.1 has stopped disbursement of family pension to the Petitioner and/or initiated action to recover the past payments. Several representations made by the Petitioner seeking reasons and details for the impugned action are pending and no response whatsoever has been communicated to the Petitioner.

10. In this view of the matter, it would be appropriate at this stage to dispose of the writ petition with a direction to Respondent No.1 to decide the pending representations of the Petitioner and also treat the present petition as a representation and take into account the issues highlighted by the Petitioner including the judgments referred to in the context of recovery from retired employees and/or recovery when excess payment has been made for a period in excess of five years, before the order of recovery is made. The decision shall be taken within a period of four weeks from today and a reasoned and speaking order shall be passed. The order shall be communicated to the Petitioner within one week from the date of the decision. It would be open to the Petitioner to take recourse to remedies available in law, in case of any surviving grievance, after the decision is communicated.

11. At this stage, Mr. Gogna, learned counsel appearing on behalf of

Respondent No.1 submits that cheques for a sum of Rs.3,71,750/- are lying with the Accounts Department of Hansraj College and the same may be collected by the Petitioner, without prejudice to the rights and contentions of the College. It is open to the Petitioner to collect the cheques, without prejudice to the rights and contentions of the respective parties.

12. Petition stands disposed of in the aforesaid terms along with pending application.

JYOTI SINGH, J

JULY 16, 2024/shivam