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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 8056/2018

RAJWANT BAHADUR SINGH

..... Petitioner

Through: Mr. R.V. Sinha, Mr. A.S. Singh and
Mr. Amit Sinha, Advs.

versus

UNION OF INDIA AND ORS.

..... Respondent

Through: Mr. Harish Vaidyanathan Shankar,
CGSC with Mr. Srish Kumar Mishra
and Mr. Alexander Mathai Paikaday,
Advs.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

24.01.2024

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1. The present writ petition under Article 226 read with Article 227 of the Constitution of India seeks to assail the order dated 30.05.2018 passed by the learned Central Administrative Tribunal (the learned Tribunal) in Original Application (O.A.) No. 2070/2018.
2. Vide the impugned order, the learned Tribunal has rejected the O.A. filed by the petitioner wherein he had assailed the order dated 04.08.2016, pursuant where to, a sum of Rs.13.93 lakhs was directed to be recovered from him on account of the purportedly excess payment made towards Dearness Allowance, which amount, the learned Tribunal observed, he was not entitled to receive.
3. Learned counsel for the petitioner submits that the impugned order



has been passed on an erroneous presumption that the petitioner was also equally at fault for having received the aforesaid excess amount towards Dearness Allowance. This presumption, he contends, has been drawn by the learned Tribunal without even examining the record or calling upon the respondents to file a counter affidavit. He, therefore, prays that the impugned order be set aside and the matter be remanded back to the learned Tribunal for fresh consideration of the O.A. after examining the record of the respondents.

4. Learned counsel for the respondents does not deny that neither any counter affidavit was filed before the learned Tribunal nor were any documents filed to show that the petitioner was guilty of misrepresentation or concealment.
5. In the light of the aforesaid stand taken by the parties, we are of the considered view that it will be necessary to determine as to whether the petitioner was in any way, responsible for the purported overpayment made to him. It would, therefore, be appropriate to remand the matter back to the learned Tribunal for determination of this primary issue, which in our view, is necessary to determine the validity of the order passed by the respondent directing recovery from the petitioner.
6. The impugned order is, accordingly, set aside and the matter is remanded back to the learned Tribunal for fresh consideration of the O.A after granting the respondents, an opportunity to file a counter affidavit and the petitioner, a rejoinder thereto. It is, however, made clear that the impugned order is being set aside on this limited ground and the same will not tantamount to an expression of opinion on the



rival claims of the parties.

7. Further, taking into account that vide order dated 04.10.2018 this Court, while issuing notice in the petition, had restrained the respondents from making any further recoveries from the petitioner, it is directed that this interim arrangement will continue till the O.A. is taken up for disposal by the learned Tribunal, whereafter the parties will be governed by the orders as may be passed by the learned Tribunal, subject to any appellate remedies as may be available to them.
8. List before the Registrar of the learned Tribunal for directions on 12.02.2024.

REKHA PALLI, J

RAJNISH BHATNAGAR, J

JANUARY 24, 2024

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