

Court No. - 4

Case :- WRIT - A No. - 9022 of 2024

Petitioner :- Smt. Nirmala Mishra

Respondent :- Union Of India Thru. Secy. Min. Of Railway Northern Eastern Railway And 4 Others

Counsel for Petitioner :- Mohammad Tauseef Siddiqui, Shiv Pratap Singh

Counsel for Respondent :- A.S.G.I., Kapish Srivastava

Hon'ble Rajesh Singh Chauhan, J.

Heard Sri Mohd. Tauseef Siddiqui, learned counsel for the petitioner and Sri S.B. Pandey, learned Senior Advocate and Deputy Solicitor General of India assisted by Sri Devrishi Kumar and Sri Amit Sharma, learned counsel for the opposite party nos. 4 and 5.

Sri Amit Sharma has filed 'Vakalatnama' on behalf of opposite party nos. 4 and 5, same is taken on record.

This is a case whereby the family pension of the petitioner has been reduced and the direction of recovery to the tune of Rs. 10,71,231/- has been issued. A recovery of Rs. 11,285/- is being deducted from the pension of the petitioner since February, 2024. The petitioner is aged about 79 years.

A preliminary objection has been raised regarding maintainability of the writ petition by submitting that for redressal of the grievance the petitioner should approach the Central Administrative Tribunal as there is specific restriction under section 14 of Administrative Tribunal Act, 1985 and also in the dictum of ***L. Chandra Kumar vs. Union of India, reported in A.I.R. 1997 SC 1125.***

On that learned counsel for the petitioner has stated that the petitioner being an old lady has approached this Court and as per the dictum of Apex Court in re : ***Whirlpool Corporation vs. Registrar of Trade Marks, Mumbai : (1998) 8 SCC 1*** the alternative remedy is not an absolute bar.

Be that as it may, since the petitioner has got statutory alternative remedy and also in view of dictum of Apex Court in re: L. Chandra kumar (supra), I am not inclined to entertain this petition.

Liberty is given to file her O.A. before the C.A.T. within a period of one month along with application for interim relief and if such O.A. is filed the interim relief application of the

petitioner is filed the interim relief application of the petitioner shall be disposed of with expedition preferably within a period of 15 days and the O.A. of the petitioner may be decided finally within a maximum period of 8 months considering the fact that the petitioner is an old aged lady.

Accordingly, the writ petition is ***dismissed for want of alternative remedy with the aforesaid liberty.***

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[Rajesh Singh Chauhan, J.]

Order Date :- 3.10.2024

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