

GAHC010079312021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3806/2021

Gajendra Nath Barman
S/o - Lt. Gauri Barman,
R/o- Ramnagar, Gopal Nagar Road,
P.O. & P.S. Noonmati,
Guwahati-20, District - Kamrup (M), Assam

.....Petitioner

-Versus-

1. The State of Assam
L.R. and Secretary,
Judicial Department,
Government of Assam.

2. The Registrar General,
Gauhati High Court,
Guwahati, Assam.

3. The Office of the
District & Sessions Judge,
Kamrup [M], Guwahati-01.

4. The Office of the
Principal Accountant General [A & E], Assam,
Maidamgaon, Beltola, Guwahati-29.

5. The Treasury Officer,
Kamrup [M]

.....Respondents

Advocates :

Petitioner	: Mr. A. Chetri, Advocate
Respondent no. 1	: Mr. R. Dhar, Additional Senior Government Advocate, Assam
Respondent nos. 2 & 3	: Mr. A. Baruah, Advocate
Respondent no. 4	: Mr. R. Talukdar, Standing Counsel, Accountant General [A&E]
Respondent no. 5	: Mr. A. Chaliha, Standing Counsel, Finance Department
Date of Hearing and Judgment & Order	: 23.03.2023

BEFORE
HON'BLE MR. JUSTICE MANISH CHOUDHURY

JUDGMENT & ORDER [ORAL]

The instant writ petition under Article 226 of the Constitution of India has been preferred by the petitioner seeking inter alia a direction to the respondent authorities to finalise the pension and other pensionary benefits of the petitioner by setting aside and quashing the impugned Pension Payment Order [PPO] no. 919111272711 and the Gratuity Payment Order [GPO] no. 11227271121 issued by the respondent no. 4.

2. To appreciate the contentions of the petitioner, it is necessary to have a brief narration about the background facts, which have led the petitioner to institute the writ petition.

3. After joining the establishment of the respondent no. 3, the petitioner's service in the post of Lower Division Assistant [LDA] in the said establishment came to be confirmed by an order bearing no. DJK/ESSTT/II/95/203-212, E dated 03.02.1999. The career progression of the petitioner in the subsequent years happened in the following manner :-

3.1. The petitioner was promoted from the post of Lower Division Assistant [LDA] to the post of Upper Division Assistant [UDA] in the Scale of Pay of ₹ 3850-90-4480-120-4600-EB-120-5200-175-66-250-7350/- per month vide an order issued under Memo no. DJK/ESSTT/975-99, E dated 03.07.1999 passed by the respondent no. 3. In the year 2016, the petitioner was promoted from the post of UDA to Sheristadar in the Court of learned Munsiff No. 1, Kamrup [M], Guwahati with the Scale of Pay of ₹5,200.00 – ₹ 20,200.00/- with Grade Pay of ₹ 3,100.00 in Pay Band – 2, as per the Revision of Pay [RoP] Rules, 2010, vide Order no. 54 dated 24.05.2016 of the learned District & Sessions Judge, Kamrup [M], Guwahati issued under Memo no. DJK/Esstt./2165-86, E dated 21.05.2016. After serving in the post of Sheristadar in the Court of learned Munsiff No. 1, Kamrup [M], Guwahati, the petitioner was promoted and posted as Sheristadar in the office of learned Civil Judge No. 2, Kamrup [M], Guwahati in the Scale of Pay of ₹ 8,000/- - ₹ 35,000/-, with Grade Pay of ₹ 4,200/- per month, in Pay Band – 3, as per the Revision of Pay [RoP] Rules, 2010, vide an Order no. 77 dated 22.07.2016 issued under Memo no. DJK/Esstt./3273-91, E dated 22.07.2016 of the District & Sessions Judge, Kamrup [M], Guwahati. The petitioner stood retired from service on and from 31.12.2018 on reaching the age of superannuation.

3.2. Subsequent to his retirement, the office of the respondent no. 3 forwarded the Service Book of the petitioner and the pension papers for release of his pension and other retirement benefits along with other necessary documents to the office of the respondent no. 4 on 20.06.2020 for processing. The Service Book and the pension papers were returned by the office of the respondent no. 4 vide its letter dated 30.09.2020 to the respondent no. 3 seeking certain clarifications with a request to make certain rectifications. The office of the respondent no. 3 re-submitted the Service Book and the pension papers to the office of the respondent no. 4 vide a letter dated 15.12.2020 after making the necessary rectifications in deference to the letter dated 30.09.2020 along with a Due and Drawn Statement in respect of the petitioner.

3.3. In the letter dated 15.12.2020 of the respondent no. 3, the said authority had referred to the Statement of Pay prepared by the office of the respondent no. 4, returned with the Service Book, wherein it was mentioned that one annual increment had lapsed on 01.07.2006. It may be stated that in the letter dated 30.09.2020, the respondent no. 4 had mentioned that no promotional benefit would be admissible to the petitioner on promotion to the post of Sheristadar in the Court of learned Civil Judge No. 2, Kamrup [M], Guwahati on and from 01.07.2016 since he was already granted Grade Pay of ₹ 8,000/-. In response, the respondent no. 3 had stated that although the Grade Pay of an UDA and the Grade Pay of the Sheristadar in the Civil Judge [Jr. Division] were same but the post of Sheristadar, Civil Judge [Jr. Division] was a promotional post and hence, the petitioner on promotion from the post of UDA to the post of Sheristadar, Civil Judge [Jr. Division] was entitled to one promotional increment and as such, the last basic pay in respect of the petitioner at the time of his

retirement i.e. on 31.12.2018 should have been ₹ 48,130/- instead of ₹ 45,530/-. The respondent no. 3 had further mentioned that earlier, the Grade Pay of Sheristadar, Civil Judge [Jr. Division] was ₹8,000/- and that of an UDA was ₹7,400/-. Later on, upon enhancement by the Government of Assam, the Grade Pay in case of the UDA was raised to ₹ 8,000/-, whereas, the Grade Pay of Sheristadar, Civil Judge [Jr. Division] remained the same @ ₹ 8,000/-. It was further mentioned that the process of enhancement of Grade Pay in case of Sheristadar, Civil Judge [Jr. Division] was under process in the Judicial Department, Government of Assam. With the Due and Drawn Statement prepared by the respondent no. 3 and annexed to the letter dated 15.12.2020, the respondent no. 3 had further mentioned that the petitioner had overdrawn an amount of ₹ 3,04,897/- and the said amount was to be recovered from the petitioner.

3.4. When despite elapse of sufficient time, the pension and other retirement benefits were not sanctioned and disbursed to the petitioner, the petitioner submitted a Representation before the respondent no. 3 on 02.01.2021 stating that the alleged amount of recovery was shown as excess drawal but such excess drawal might be attributed to erroneous fixation of his salary at ₹ 48,130/- instead of ₹ 45,530/-. Contending that such erroneous fixation of pay cannot be attributed to the petitioner, no action should be undertaken for recovery of any amount on the purported ground of excess drawal. The petitioner in his said Representation had further referred to an Office Memorandum no. Fin[EC-III]1808/2018/2 dated 14.06.2019 of the Finance Department, Government of Assam wherein the situations in which recoveries due to drawal of any excess amount in excess of employee's entitlement for any

mistaken steps by the employer had been made impermissible. Immediately after submission of the Representation by the petitioner on 02.01.2021, the respondent no. 4 issued the impugned Pension Payment Order [PPO] no. 919111272711 dated 17.02.2021 and the impugned Gratuity Payment Order [GPO] no. 11227271121 dated 17.02.2021. By the PPO dated 17.02.2021, the office of the respondent no. 4 informed the respondent no. 5 that the petitioner be paid an amount of ₹ 24,070/- per month as pension. By the GPO dated 17.02.2021, the office of the respondent no. 4 informed the respondent no. 5 that the petitioner be paid an amount of ₹8,65,623/- as Death-cum-Retirement Gratuity [DCRG]. The GPO has further reflected that an amount of ₹ 3,36,727/- was due towards overpayment of pay and allowances and an amount of ₹ 3,00,779/- was to be recovered from arrear and future relief.

4. I have heard Mr. A. Chetri, learned counsel for the petitioner and Mr. R. Dhar, learned Additional Senior Government Advocate, Assam for the respondent no. 1; Mr. A. Baruah, learned counsel appearing on behalf of Mr. T.J. Mahanta, learned Senior Standing Counsel, Gauhati High Court for the respondent nos. 2 & 3; Mr. R. Talukdar, learned Standing Counsel, Accountant General [A&E] for the respondent no. 4 and Mr. A. Chaliha, learned Standing Counsel, Finance Department for the respondent no. 5.

5. It is the case of the petitioner that after issuance of the GPO dated 17.02.2021, the petitioner approached the respondent no. 3 as well as the respondent no. 4 as regards the steps taken for recovery on the alleged amount towards overdrawal of pay and allowances. When so approached, the petitioner was made to understand that unless and until the amount sought to be

recovered i.e. ₹ 3,36,727/- was not deposited by the petitioner even his provisional pension, which was not released since 01.01.2019, could not be sanctioned. Finding no option, the petitioner was compelled to deposit an amount of ₹ 3,36,727/- in the Treasury, Kamrup [M], Guwahati vide Challan no. 2021/03/13569 dated 26.03.2021. It was only after deposit of the amount of ₹ 3,36,727/-, the petitioner was paid the arrear pension as well as the regular pension on 27.03.2021.

5.1. In the meantime, the office of the respondent no. 3 forwarded a proposal vide letter no. DJK/Esstt/2207 on 22.02.2021 seeking necessary approval to waive the refund of excess drawal of pay and allowances in respect of the petitioner, who retired as the Sheristadar in the office of the Civil Judge [Senior] Division, Kamrup [M].

5.2. After the receipt of the proposal, the Judicial Department moved the matter to the Pension and Public Grievances Department for views as per the advice of the Financial Adviser, Judicial Department. After obtaining the approval from the Pension and Public Grievances Department, the Judicial Department moved the Finance Department for concurrence on the proposal. The Finance Department had, however, vide their endorsement dated 10.08.2021 returned the file with a query. The query appears to be trivial in nature as the Finance Department had observed that as per the Statement prepared by the respondent no. 3, the total excess drawal came to ₹ 3,04,897/- whereas the proposal was made for waiver for an amount of ₹3,00,000/- only. The Judicial Department was thereby requested to re-submit the proposal after proper calculation of the actual amount towards waiver against excess drawal. On

receipt of the query from the Finance Department, the Judicial Department informed the respondent no. 3 vide its letter dated 18.08.2021 to re-submit the proposal with proper calculation and showing the actual amount required to be considered for waiver against excess drawal of pay and allowances by the petitioner. The office of the respondent no. 3 had thereafter, re-submitted a proposal seeking waiver of an amount of ₹ 3,00,779/- to the Judicial Department vide its letter under Memo no. 3268 dated 21.03.2022 stating that the total amount of recovery made was ₹ 3,36,727/- and out of that amount, an amount of ₹ 3,00,779/- was recovered from the DCRG of the petitioner towards excess drawal of pay and allowances. The office of the respondent no. 4 vide its letter no. Pen-1/A/069905/DSJ/254/371/2020/273 dated 05.10.2021, addressed to the respondent no. 3, had verified that the office of the respondent no. 4 had authorized [a] pension to the petitioner @ ₹ 24,070/- per month w.e.f. 01.01.2019 vide PPO no. 919111272711 dated 17.02.2021; and [b] DCRG amounting to ₹ 8,65,623/- in lumpsum vide GPO no. 11227271121 dated 17.02.2021. It had further clarified that while authorizing the DCRG, the following recoveries were shown in the GPO i.e. [i] ₹8,29,675/- as Provisional DCRG paid by the Government; and [ii] ₹ 3,36,727/- towards overdrawal of pay and allowances, etc. [₹ 3,04,897/- towards over payment of pay and allowances *plus* ₹ 31,830/- overpayment of leave salary].

5.3. Thus, the office of the respondent no. 4 directed the respondent no. 3 to recover an amount of ₹ 3,00,779/-. The office of the Principal Accountant General [A&E] vide its letter no. Legal Cell/Pen-1/WP© No. 3806/2021/212 dated 20.10.2021 had further clarified that the office of the respondent no. 4 had requested the respondent no. 5 to recover the net amount of ₹ 3,00,779/-

[(₹ 304897/- + ₹ 31830) minus ₹ 35,948/- (less provisional DCRG authorized by the Department)] from the arrear and future relief of the petitioner as the pension case of the petitioner was received without any approval from the State Government regarding waiver of recovery.

6. From the above conspectus of facts and circumstances of the case in hand, as narrated above, it has clearly emerged that the respondent authorities had recovered an amount of ₹ 3,00,779/- from the DCRG of the petitioner towards overdrawal of pay and allowances. When after his retirement on superannuation on 31.12.2018, the petitioner neither received the provisional pension nor the regular pension he was compelled to deposit an amount of ₹ 3,36,727/- on 26.03.2021 and it was only after the deposit of the amount of ₹ 3,36,727/-, the arrear pension and the regular pension was released to the petitioner. But there was no decision as regards the waiver of the recovered amount. It has further emerged that despite re-submission of the proposal from the office of the respondent no. 3 seeking waiver of the amount of ₹ 3,00,779/- towards overdrawal of pay and allowances on 21.03.2022, the matter rested there without any decision from any of the two Departments i.e. Judicial Department and the Finance Department.

7. At this juncture, it is apposite to refer to the decision of the Hon'ble Supreme Court of India in State of Punjab and others vs. Rafiq Masih [White Washer] and others, reported in [2015] 4 SCC 334. In the said decision, the Hon'ble Supreme Court of India had examined the validity of an order passed by the State to recover the monetary gains wrongly extended to the beneficiary employees in excess of their entitlements without any fault or misrepresentation

from their end. The Hon'ble Supreme Court of India had considered the situations of hardship caused to an employee, if any recovery is directed from such employees. The decision has observed as under :-

8. As between two parties, if a determination is rendered in favour of the party, which is the weaker of the two, without any serious detriment to the other [which is truly a welfare State], the issue resolved would be in consonance with the concept of justice, which is assured to the citizens of India, even in the Preamble of the Constitution of India. The right to recover being pursued by the employer, will have to be compared, with the effect of the recovery on the employee concerned. If the effect of the recovery from the employee concerned would be, more unfair, more wrongful, more improper, and more unwarranted, than the corresponding right of the employer to recover the amount, then it would be iniquitous and arbitrary, to effect the recovery. In such a situation, the employee's right would outbalance, and therefore eclipse, the right of the employer to recover.

* * * * *

18. It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law :

- [i] Recovery from employees belonging to Class-III and Class-IV service [or Group C and Group D service].
- [ii] Recovery from the retired employees, or employees who are due to retire within one year, of the order of recovery.
- [iii] Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.
- [iv] Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should

have rightfully been required to work against an inferior post.

[v] In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.

8. Following the decision in Rafiq Masih [White Washer] [supra], the State Government in the Finance Department has also issued the Office Memorandum dated 14.06.2019 [supra] directing all Departments to act in accordance with the principles laid down in Rafiq Masih [White Washer] [supra] while deciding cases of wrongful/excess payments. The Office Memorandum has further indicated when the waiver of recovery in the afore-mentioned situation, quoted above, is considered and, where the recovery to be waived is beyond ₹ 1,00,000/-, then the approval of the Finance Department is to be obtained.

9. Even prior to the decision in Rafiq Masih [White Washer] [supra] and the Office Memorandum dated 14.06.2019 [supra], the Hon'ble Supreme Court of India has consistently held that if any excess amount was paid to an employee during his service tenure and such excess payment was not attributable to any act of misrepresentation or fraud on the part of the employee or if such excess payment was made by the employer by applying a wrong principle for calculation of the pay and allowances on the basis of an erroneous application in the method of calculation, then recovery of such excess payment would be iniquitous.

9.1. In Sahib Ram vs. State of Haryana and others, reported in 1995 Supp [1] SCC 18, the Hon'ble Supreme Court of India had restrained recovery of payment which

was given on account of an erroneous construction of the relevant order by the concerned authority, without any misrepresentation on the part of the employees. The appellant therein was a Librarian in a Government College in a prescribed pay scale. The Principal of the College allowed the appellant the benefit of a revised/updated pay scale purportedly on the basis of a decision taken by the Government of India in its proceedings held on 16.01.1987 to relax the requirement of securing the prescribed educational qualifications, after the Haryana Government accepted the recommendations of the Government of India and the University Grants Commission [UGC] of an upgraded pay scale to Librarians w.e.f. 01.01.1973, provided the Librarians possess the prescribed educational qualifications. Subsequently, the Government of Haryana directed the Principal of the College to withdraw the upgraded pay scale so allowed to the petitioner. Therein, the Hon'ble Supreme Court of India has observed as under :-

“5. Admittedly the appellant does not possess the required educational qualifications. Under the circumstances the appellant would not be entitled to the relaxation. The Principal erred in granting him the relaxation. Since the date of relaxation the appellant had been paid his salary on the revised scale. However, it is not on account of any misrepresentation made by the appellant that the benefit of the higher pay-scale was given to him but by wrong construction made by the Principal for which the appellant cannot be held to be at fault. Under the circumstances the amount paid till date may not be recovered from the appellant. The principle of equal pay for equal work would not apply to the scales prescribed by the University Grants Commission. The appeal is allowed partly without any order as to costs.”

9.2. In Col. B.J. Akkara [Retd.] vs. Government of India and others, reported in [2006] 11 SCC 709, the Hon'ble Supreme Court of India on the aspect of recovery of excess payment made on account of wrong interpretation/understanding of

the relevant circular, has observed as follows :

27. The last question to be considered is whether relief should be granted against the recovery of the excess payments made on account of the wrong interpretation/understanding of the circular dated 7-6-1999. This Court has consistently granted relief against recovery of excess wrong payment of emoluments/allowances from an employee, if the following conditions are fulfilled [vide Sahib Ram vs. State of Haryana, reported in [1995] Suppl. 1 SCC 18; Shyam Babu Verma vs. Union of India, reported in [1994] 2 SCC 521; Union of India vs. M. Bhaskar, reported in [1996] 4 SCC 416, and V. Gangaram vs. Regional Joint Director, reported in [1997] 6 SCC 139] :

[a] The excess payment was not made on account of any misrepresentation or fraud on the part of the employee.

[b] Such excess payment was made by the employer by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of rule/order, which is subsequently found to be erroneous.

28. Such relief, restraining back recovery of excess payment, is granted by courts not because of any right in the employees, but in equity, in exercise of judicial discretion to relieve the employees from the hardship that will be caused if recovery is implemented. A government servant, particularly one in the lower rungs of service would spend whatever emoluments he receives for the upkeep of his family. If he receives an excess payment for a long period, he would spend it, genuinely believing that he is entitled to it. As any subsequent action to recover the excess payment will cause undue hardship to him, relief is granted in that behalf. But where the employee had knowledge that the payment received was in excess of what was due or wrongly paid, or where the error is detected or corrected within a short time of wrong payment, courts will not grant relief against recovery. The matter being in the realm of judicial discretion, courts may on the facts and circumstances of any particular case refuse to grant such relief against recovery.

29. On the same principle, pensioners can also seek a direction that wrong payments should not be recovered, as pensioners are in a more disadvantageous position when compared to in-service employees. Any attempt to recover excess wrong payment would

cause undue hardship to them. The petitioners are not guilty of any misrepresentation or fraud in regard to the excess payment. NPA was added to minimum pay, for purposes of stepping up, due to a wrong understanding by the implementing departments. We are therefore of the view that the respondents shall not recover any excess payments made towards pension in pursuance of the circular dated 7-6-1999 till the issue of the clarificatory circular dated 11-9-2001. Insofar as any excess payment made after the circular dated 11-9-2001, obviously the Union of India will be entitled to recover the excess as the validity of the said circular has been upheld and as pensioners have been put on notice in regard to the wrong calculations earlier made.

9.3. In *Syed Abdul Qadir and others vs. State of Bihar and others*, reported in [2009] 3 SCC 475, the appellants were teachers of the schools which had been taken over by the State of Bihar under the Bihar Non-Government Secondary Schools [Take Over of Management and Control] Act, 1981. The appellants were given benefit of additional increment inter-alia on the basis of F.R.22–C by a Resolution of the Government passed on 18.12.1989. On the date of the Resolution dated 18.12.1989, F.R.22-C was not in force as F.R.22-C had since been deleted by the Central Government vide a Notification dated 30.08.1989 and in its place, F.R.22[I][a][1] and F.R.22[I][a][2] were substituted and as such, the benefit of additional increment made available to the appellants under F.R.22-C was found to be erroneously made. Contention was advanced on behalf of the appellant that even if it were to be held that the appellants were not entitled to the benefit of additional increment, the excess amount should not be recovered from them as the same was paid without any misrepresentation or fraud on their part. The Hon'ble Supreme Court of India has held that the appellants cannot be held responsible in such a situation and the recovery of the excess payment should not be ordered, more particularly, when the employees had subsequently retired. It has been held in the following

manner :-

57. This Court, in a catena of decisions, has granted relief against recovery of excess payment of emoluments/allowances if [a] the excess amount was not paid on account of any misrepresentation or fraud on the part of the employee, and [b] if such excess payment was made by the employer by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of rule/order, which is subsequently found to be erroneous.

58. The relief against recovery is granted by courts not because of any right in the employees, but in equity, exercising judicial discretion to relieve the employees from the hardship that will be caused if recovery is ordered. But, if in a given case, it is proved that the employee had knowledge that the payment received was in excess of what was due or wrongly paid, or in cases where the error is detected or corrected within a short time of wrong payment, the matter being in the realm of judicial discretion, courts may, on the facts and circumstances of any particular case, order for recovery of the amount paid in excess. See *Sahib Ram vs. State of Haryana*, reported in 1995 Supp. [1] SCC 18; *Shyam Babu Verma vs. Union of India*, reported in [1994] 2 SCC 521; *Union of India vs. M. Bhaskar*, reported in [1996] 4 SCC 416; *V. Gangaram vs. Regional Joint Director*, reported in [1997] 6 SCC 139; *Col. B.J. Akkara [Retd.] vs. Government of India & others*, reported in [2006] 11 SCC 709; *Purshottam Lal Das & others vs. State of Bihar*, reported in [2006] 11 SCC 492; *Punjab National Bank vs. Manjeet Singh*, reported in [2006] 8 SCC 647; and *Bihar State Electricity Board vs. Bijay Bahadur*, reported in [2000] 10 SCC 99.

59. Undoubtedly, the excess amount that has been paid to the appellant - teachers was not because of any misrepresentation or fraud on their part and the appellants also had no knowledge that the amount that was being paid to them was more than what they were entitled to. It would not be out of place to mention here that the Finance Department had, in its counter-affidavit, admitted that it was a bona fide mistake on their part. The excess payment made was the result of wrong interpretation of the Rule that was applicable to them, for which the appellants cannot be held responsible. Rather, the whole confusion was because of inaction, negligence and carelessness of the officials concerned of the Government of Bihar. Learned counsel appearing on

behalf of the appellant teachers submitted that majority of the beneficiaries have either retired or are on the verge of it. Keeping in view the peculiar facts and circumstances of the case at hand and to avoid any hardship to the appellant teachers, we are of the view that no recovery of the amount that has been paid in excess to the appellant teachers should be made.”

10. It is not the case of any of the respondents that there was any act of mischief or misrepresentation or fraud on the part of the petitioner in erroneous fixation of pay at any stage of his service career. Admittedly, the petitioner was a Grade-III employee in the establishment of the respondent no. 3 when he retired from service on superannuation. The principle which has emerged is that the relief against recovery is granted by courts not because of any right in the employees, but in equity, exercising judicial discretion to relieve the employees from the hardship that will be caused if recovery is ordered, more particularly, when the employee had retired from service on superannuation.

11. Having noted the fact situations obtaining in the case in hand vis-à-vis the principles laid down in Rafiq Masih [White Washer] [supra], Sahib Ram [supra], Col. B.J. Akkara [Retd.] [supra] and Syed Abdul Qadir [supra], this Court is of the considered view that the principles laid down in the afore-mentioned decisions are applicable proprio vigore in the case of the petitioner. In such view of the matter, this Court is of the unhesitant view that the recovery of the amount of ₹ 3,00,779/- from the petitioner towards excess drawal of pay and allowances is not to be allowed. As the petitioner has already deposited the amount of ₹ 3,00,779/- vide Challan dated 26.03.2021 in compelling situation, the said amount is to be repaid to the petitioner within a period of 8 [eight] weeks from the date of receipt of a certified copy of this Order from the petitioner by the

respondent no. 1, the respondent no. 3 & the respondent no. 5 respectively.

12. The writ petition stands allowed to the extent indicated above. As a corollary, the respondent authorities are directed to make the necessary modifications in the Pension Payment Order [PPO] no. 919111272711 dated 17.02.2021 and the Gratuity Payment Order [GPO] no. 11227271121 dated 17.02.2021, if found necessary. There shall be no order as to cost.

JUDGE

Comparing Assistant