

GAHC040012362024



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

Case No. : WP(C)/418/2024

Nani Yadii
W/o Late Nani Tachang, resident of B-Sector, Veterinary Complex, Prem Nagar,
Naharlagun, Papum Pare District, AP

VERSUS

The State Bank of India and Anr
Naharlagun Branch, Code 3232, represented by the Chief Manager, PO/PS
Naharlagun

2:The Union of India
Age: 0
Occupation :
represented by the Income Tax Officer
Ward-North Lakhimpur-787001
PO/PS North Lakhimpur
Assa

Advocate for the Petitioner : Hage Lampu, Dani Dolley, Joram Sanjay, Khyoda Moses

Advocate for the Respondent : Marto Kato, SC(SBI), Yomrik Karga, DSGI

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 06.12.2024

Heard Mr. H. Lampu, learned counsel for the petitioner.

2. In this petition under Article 226 of the Constitution of India, the petitioner Smti Nani Yadii, wife of Late Nani Tachang of Naharlagun, has prayed for issuing directions to the Branch Manager of State Bank of India, Naharlagun Branch, Naharlagun, to defreeze the family pension amounts received by her in her saving bank account No. 10333847364, and to make the same operational.

3. It is to be noted here that on the strength of a notice dated 25.02.2020, issued under Section 226(3) of the Income Tax Act, 1961, by the proforma respondent No. 2 represented by the Income Tax Officer, North Lakhimpur & TPS, wherein, the Branch Manager, State Bank of India, Naharlagun Branch was asked to pay a sum of Rs. 13,55,310/- (Rupees Thirteen lakhs fifty-five thousand three hundred ten) along with interest payable by the petitioner, being the income tax, for the year 2017-18 and the aforesaid amount has to be deposited by challan with the credit of the Central Government, the respondent No. 1 has freezed/blocked the aforesaid account of the petitioner.

4. The learned counsel for the petitioner submits that on the basis of the letter dated 25.02.2020, the Branch Manager, State Bank of India, Naharlagun Branch, has freezed the account of the petitioner and that the petitioner has been drawing her pension in the aforesaid account and since the year 2020, she

could not draw her pension amount and she has been suffering a lot and therefore, Mr. Lampu, learned counsel for the petitioner contended to issue necessary direction to the respondent No. 1 to defreeze the account of the petitioner.

4.1. Mr. Lampu, learned counsel for the petitioner further submits that during the period of demonetization in the year 2016, the petitioner has sold a plot of land at her native place at Ziro for the educational purpose of her children and deposited a sum of Rs. 12,50,000/- (Rupees Twelve thousand fifty lakhs) in her said account without knowing the complexities of the situation and consequently, the same catch the eye of the Income Tax Department and she was served with a notice under Section 142(1) of the Income Tax Act, and thereafter, the petitioner has filed an appeal before the Joint Commissioner (Appeals) situated at ITO, Tezpur, and the said appeal is yet to be dispose of.

4.2. Mr. Lampu, learned counsel for the petitioner also submits that in view of the provision of Section 16(1) of CPC and also under Section 11 of Pension Act, 1871, the respondent No. 1 i.e., the State Bank of India cannot freeze/block the pension account on the direction of the Income Tax Department.

4.3. In support of his submission Mr. Lampu, has referred to the decision of the High Court of Telangana at Hyderabad in the case of ***G. Surya Kumari vs. Union Bank of India & Anr.***, reported in ***2022 3 ALD 673***.

5. It is to be noted here that none appears for the respondent Nos. 1 and 2, though, notice upon the respondent No. 1 was served

by *dasti* mode and notice upon the respondent No. 2 was sent by registered post.

6. Having heard the submission of learned counsel for the petitioner, I have carefully gone through the petition as well as the documents placed on record and also perused the notice dated 25.02.2020, issued by the proforma respondent No. 2 and also gone through the decision referred by Mr. Lampu, learned counsel for the petitioner.

7. A careful perusal of the Section 11 of the Pension Act, 1871, indicates that no pension granted or continued by government on political considerations, or on account of past services or present infirmities or as a compassionate allowance, and no money due or to become due on account of any such pension or allowance, shall liable to be seized, attachment or sequestration by process of any court, at the instance of a creditor, for, any demand against the pensioner, or in satisfaction of a decree or order of any such court.

8. A careful perusal of Section 60(1)(g) of CPC, also indicates that pension account cannot be frozen or attached.

9. In the case of ***G. Surya Kumari (Supra)***, the High Court of Telangana has held that there is a statutory mandate debarring attachment sale of pension amount. Thereafter, it has directed the respondent Bank to defreeze the pension account of the petitioner of the said case. I am in respectful agreement with the aforementioned proposition of law.

10. Taking note of above legal proposition and also taking note of the submission of the learned counsel for the petitioner and also considering the fact that the respondent authorities have not contested this petition, this Court is inclined to allow this writ petition.

11. The respondent No. 1, State Bank of India, Naharlagun Branch, represented by its Branch Manager, is directed to forthwith defreeze/unblock the pension account of the petitioner to the extent of pension amount.

12. The petitioner shall obtain a certificate copy of this order and place the same before the respondent No. 1 within a period of 1(one) week from today. And on receipt of the same, the respondent No. 1, shall carry out the direction indicated herein above within a period of 2(two) days from the date of receipt of certified copy of the said order.

13. In view of above, this writ petition stands allowed and is disposed of. The parties have to bear their own costs.

JUDGE

Comparing Assistant