

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 15811 of 2011

=====

Smt. Sarifan Khatoon, Wife of Late Maula Mian, Resident of Village - Barharwa,
P.O. Barharwa, P.S. Kotwa, District - East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Accountant General, Bihar, Patna.
3. The Secretary, Food & Consumer Protection, Bihar, Patna.
4. The President-cum-Chairman, District Consumer Forum, Motihari, East Champaran.

.... Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar No.III, Advocate
For the (A & E) Bihar	:	Mr. Satyendra Kumar Jha, Advocate.
For the State	:	Mr. Ashok Kumar Pathak, A.C. to G.P. XI.
For the BSFC	:	Mr. Awadhesh Kumar, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 14-12-2015

Heard learned counsel for the parties.

The present writ application has been filed for quashing of the order passed by the respondent no. 4 dated 18.04.2011 by which after seven years of retirement/death of her husband, it has been directed to refund the excess amount paid to her husband on various heads.

Learned counsel for the petitioner submits that her husband, soon after superannuation in the year 2004, passed away and suddenly in the year 2011, she was sent an order, which is impugned, dated 15.04.2011 asking her to appear in the office and got the amount paid to her husband in excess of his entitlement calculated and then to deposit the same in the Treasury, which is capricious, arbitrary and illegal. It is submitted that the petitioner, being the widow, cannot be called

upon to return the money which may have to be paid to her late husband and that too after seven years of his superannuation/death.

Learned counsel for the State submits that in view of the objection raised by the Accountant General in such cases, the said order has been passed. However, he is not in a position to defend such order in the present case.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court holds that the impugned direction to the petitioner for refund of so called excess amount which may have been given to her late husband, especially after seven years of his superannuation/death cannot be sustained as it is highly iniquitous. The Court is fortified in its view by the law laid down by the Hon'ble Supreme Court in the case of **State of Punjab v. Rafiq Masih** reported in **(2015) 4 SCC 334**.

Accordingly, the impugned order dated 18.04.2011 passed by the respondent no. 4 under Memo No. 274 stands quashed.

The respondents are restrained from making any recovery from the petitioner.

The writ petition stands disposed off.

(Ahsanuddin Amanullah, J.)

P. Kumar

U		T	
---	--	---	--