IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9985 of 2015

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Maksudan Lal son of Late Prithwi Lal, resident of village Gondi,l P.O. Khairabari, Police Station Bhawerkoal, District Ghazipur, (U.P). At present residing at c/o Sri Dinesh Prasad, Sahay Sadan, Papin Gali, North Mandiri, Police Station Budha Colony, Patna-1

.... Petitioner/s

Versus

1.The Union of India through Secretary, Ministry of Finance, Governmtn of India, new Delhi.
2.Assistant Account Officer, Ministry of Finance, Department of Expenditure, Central Pension Accounting office, New Delhi-110066.
3.Pay and Account Officer, Central Pension Accounting Office, Government of India, New Delhi-110066.
4.Account Officer, Regional Pay and Account Office (CISF), Ministry of Home Affairs, A.G. Office Complex, Ranchi-834002.
5.Assistant General Manager, State Bank of India, Centralized Pension Processing Centre, 4th Floor, Administrative Office Building, J.C. Road, Patna-1.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jitendra Prasad Singh, Adv
For the U.O.I.	:	Mr. Rajesh Kumar Verma C.G.C
For the S.B.I.	:	Mr. Kaushlendra Kumar Sinha, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

2 10-07-2015 Heard learned counsel for the parties as with regard to the following reliefs prayed in this writ application:-

> *"Respondents be directed not to deduct and recover the pension which has already paid to the petitioner as per the fixation of pension.*
> *Respondents be directed to pay the full and final pension as withdrawn by the petitioner prior to the month of July, 2014."*

Learned counsel for the petitioner had initially tried to impress upon this Court that the petitioner who is the pensioner since 1996, has been subjected to huge recovery of Rs. 3,26,792/- which in effect has reduced his pension by almost 50 per cent. Learned counsel, therefore, was of the view that before the respondents would pass such punitive order, they were required to have given show cause notice and/or would have afforded opportunity of hearing. The action of the respondent including the authorities of the State Bank of India in subjecting the petitioner not only to recover the aforementioned amount to put him to rigors of paying the amount of Rs. 2900/- per month for recovery of the aforementioned amount is wholly unreasonable keeping in view that the entire pension of the petitioner with D.A. and other allowances is paid to the tune of Rs. 10,185/- per month.

Learned counsel for the respondents on the other hand has explained that it is not the case of recovery of the amount that were paid by the Government rather by the authority of the State Bank of India from which the petitioner has been drawing pension and had drawn excess amount on account of wrong interpretation of the authorization order of the Central Government. It has also been explained that the petitioner when he has not explained about his ultimate entitlement as shown in the impugned order contained in Anneuxre-1, his plea that he has made no misrepresentation while drawing excess amount being paid by the Bank, will be of no avail.

In the considered opinion of this Court, there is some confusion in the mind of the petitioner. The petitioner when he had retired in the year 1996, he was given basic pension of Rs. 780 per month for a period of 7 years and thereafter a sum of Rs. 450 per month. This amount of pension got revised on the implementation of the 6th Pay Revision Committee recommendation coming into force w.e.f. 01.01.2006. The basic pension of the petitioner in fact of Rs. 450 per month, which was to be paid to him in view of the earliest Pension Payment Order became Rs. 4650/- on which the amount of D.A. and other allowances were payable. Subsequent to 6th Pay Revision Committee recommendation and the Government decision coming into force from 24th September, 2012, this amount of basic pension of Rs. 4650/- became Rs. 4920/-. It was here that the Bank while making payment of the monthly pension along with D.A. and other allowances has made certain excess payment contrary to the decision of the Government of India due to wrong interpretation of the Government decision. Ultimately, the Bank had made payment of Rs. 3,26,792/- in excess as to how this amount was to be revised. Thus, the office of the Accountant General, Central Pension Accounts Office, had issued the order on 21st July, 2014, thereafter recalculation was made by the authorities of the Bank and it was found that the petitioner had drawn in excess sum of Rs. 3,26,792/-. This amount being public money and the Bank having no other resources of recovery from the petitioner had decided to recover the amount of Rs. 3,26,792/- in 113 installments, each of being Rs. 2900/- per month.

This Court has, accordingly, examined the pleadings on record as also noticed the submission of learned counsel for the petitioner, wherein, not a word has been said as with regard to petitioner being entitled to any higher amount fixed in the order dated 21.07.2014 (Annexure-1). All that has been paid was not on the part of any misrepresentation or fraud on the part of the petitioner, that amount should not be recovered and the petitioner now being old man should not be subjected to huge recovery of Rs. 2900 per month.

As noted above, once the petitioner does not question the validity or correctness of the order fixing pension, he being an old pensioner since 1996 almost two decades, will have to be bound by the initial Pension Payment Order which itself provides that if any excess amount was paid to him that could be recovered.

Here is not a case that the petitioner was paid in his service period which is sought to be recovered. It is the case of simple calculation of the amount under Pension Payment Order. This Court does not find any necessity of giving show cause notice and/or affording opportunity of hearing.

Reverting back to the individual hardship that he is aged about 75 years and he has still to undertake huge expenses on his own treatment. This Court would find that fixation of more than 25 per cent of the present emoluments is on the high side. Thus, this Court having regard to the over all situation that the respondents also have to recover the sum of Rs. 3,26,792/- from the petitioner, who is aged about 75 years keeping in view that his total emoluments of pension at present is only the amount of Rs. 10,000/- approximately, would direct that he should not be subjected to recovery of more than $1/4^{th}$ of his amount payable to him.

That would mean that the petitioner would be subjected to recovery of Rs. 2500/- per month in place of Rs. 2900/- and for that purpose the State Bank of India would issue an order shifting the number of installments from 113 to any number of installment under which such recovery of Rs. 3,26,792/- could be made from the petitioner by only deducting Rs. 2500/- per month by way of installments.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

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