IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2658 of 2015

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Sharda Devi Wife of Late Sidheshwari Sharan Sinha Resident of Mohalla - Hanuman Nagar, New Punaichak, P.S. Shastrinagar, District - Madhubani

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Co - Operative Department (Handloom), Government of Bihar, Patna
2. The Assistant General Manager, State Bank of India Centralized Pension Processing Centre 4th floor, Administrative office Building J.C. Road, Patna
3. The Treasury Officer, Patna
4. The Accountant General, Veer Chand Patel Path, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kripa Nand Jha, Advocate.
For the Respondent/s	:	Mr. Uday Shankar Sharan Singh, GP-1. Mr. Uday Bhan Singh, AC to GP-1
For the S.B.I.	:	Mr. Rakesh Kumar Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

4 06-04-2015 Heard learned counsel for the parties.

2. The prayer of the petitioner in this writ application reads as follows:

> *"1. (i) For issuance of an appropriate direction, order or writ in the nature of certiorari quashing the letter no. 824 dated 13.01.2015 whereby and whereunder on the basis of the vague information by the respondent no. 2 the family pension of the petitioner has been reduced from Rs. 14723 to 6588/- without any order by the competent authority that too without any opportunity of being heard to this petitioner.*
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> *(ii) For issuance of an appropriate direction, order or writ in the nature of mandamus commanding respondents, specially the respondent no. 2 to refund the total deducted amount and to pay family pension to the petitioner as was being paid to her Rs. 14723/- PM which is now being paid to her by deducting more than 60% P.M. w.e.f. November 2014 i.e. out of Rs. 14723/- P.M. now the petitioner is being paid Rs. 6588/- P.M. only.*
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> *(iii) For holding and declaring that the respondents cannot deduct a single penny from the family pension of the petitioner*

without any notice or show cause to her and therefore any deduction from family pension is arbitrary and bad in law."

3. When this case was taken up on 13.02.2015, this Court had directed the concerned authority of the State Bank of India (hereinafter referred to as 'the Bank') to explain as to why the Family Pension of the petitioner was reduced and how the deduction was made of more than 8,000/- in the month of November when the realization of the alleged excess amount was to be made only by way of Rs. 3,293/- per month.

4. Pursuant to such direction, the respondents have filed their counter affidavit in which the whole thing has been explained, as would be apparent from para nos. 4 to 8 of the counter affidavit, which reads as follows:

"4. That it is humbly submitted that the factual matrix of the case is that earlier the petitioner was taking her family pension from State Bank of India Rajbanshi Nagar Branch and later on her pension data was transferred to Centralised Pension Processing Centre, J.C. Road, Patna on 01.08.2007. It is further stated that at the time of migration of pension data the date of birth of the petitioner was wrongly entered as 20.05.1915 instead of 27.7.1940.

5. That it is humbly submitted that due to said wrong entry of date of birth, the petitioner has been paid excess pension as age benefit of Rs. 1871/- as per 6th Pay Commission i.e. 40% of the basic pension Rs. 4677 + admissible DA w.e.f. 01/04/2007 to 30.04.2010 and Rs. 2339 i.e. 50% of basic pension + admissible DA w.e.f. 01.05.2010 to 31.10.2014 total excess amount pad amounting to Rs. 2,98570/- (Rupees Two lakh ninety eight thousand five hundred and seventy only) which was rectified on 01.11.2014.

6. That when the excess payment was traced out and rectified vide annexure-3 of the writ petition, the petitioner has enquired and asked about the details from the Branch Manager with regard to deduction of the pension amount which was replied through the annexure-4 of the application where as it is vividly mentioned that due to wrong entry of date of birth, she was paid excess of Rs. 2,98,970/ in her pension head, so the recovery of Rs. 3293/ on 90th monthly instalment was made since 01.11.2014 to 30.4.22 without *interest.*

7. That with regard to deduction of pension in the month of November, 2014, it is humbly stated that the submission of the petitioner that deduction was more than Rs. 8000/ is factual incorrect and wrong, the details of pension of November, 2014 after correcting the date of birth which is as follows:

Basic Pension	*Rs. 4,677.00*
DA	*Rs. 5,004.00*
Misc. Allowance	*Rs. 200.00*
Total	*Rs. 9881.00*
Recovery of Excess amount(-)	*Rs. 3293.00*
Total pension Paid	*Rs. 6,588.00*

8. That it is further stated when the matter of wrong entry of date of birth of the petitioner was detected then she was not entitled for age benefit of Rs. 2339/ which is 50% of the basic pay as per 6th Pay Commisson and so on and DA on that amount Rs. 2503/- and there was also a recovery of Rs. 3,293/- total Rs. 8135/-. That for the month of November 2014 the total recovery of excess pension is Rs. 3,293 only and not more than that."

5. Mr. Kripanand Jha, learned counsel for the petitioner, does not intend to dispute the settled propositions of law that if any excess payment has been made to the petitioner, its recovery is well permissible. He, however, has a grievance that the petitioner, a widow, is not being given full detail of the account maintained by her in the aforesaid Bank, as a result whereof she has always been under impression that she is being subjected to much more amount of recovery than what was envisaged in terms of the excess payment made to her.

6. Mr. Jha, in this regard, has pointed out to the discrepancies in the account furnished by the Bank vis-à-vis entries made in the pass-book of the petitioner.

7. In the considered opinion of this Court, once the settled principle of law as with regard to recovery is not under

dispute, the rest of the accounting matter has to be looked into by the authorities of the Bank. If the petitioner, the widow, wants to be satisfied with a detail account, that should be furnished to the Bank and she should also be explain about the entries made in her pass-book so that she may be satisfied that nothing beyond the excess amount has been sought to be recoverable.

8. This Court hopes and believes that the Branch Manager of the concerned Branch of the Bank shall extend a sympathetic consideration to the petitioner considering that she is a widow and may not be qualified to understand the jugglery of the account. In that view of the matter, if the petitioner approaches the competent authority of the Bank, they must initially furnish to her the detail account and thereafter also prepare a note of her grievance and pass an order on the same for its being communicated to her. The petitioner may thereafter either take recourse to the Banking Ombudsman or to any other competent authority or the court, as is permissible in law.

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

(Mihir Kumar Jha, J)

Sujit/-

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