* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **WRIT PETITION (CIVIL) No. 302/2014**

Reserved on: 17th October, 2016

% **Date of Decision:** 1st December, 2016

CANARA BANK ....Petitioner

Through Mr. Prashant Kumar Mittal, Advocate.

Versus

ANGNA RAM & ANOTHER .....Respondents

Through Mr. Mahesh Verma, Advocate alongwith respondent No. 1 in person.

Ms. Monika Arora, CGSC & Mr. Harsh Ahuja, Advocate for UOI.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MS. JUSTICE SUNITA GUPTA

SANJIV KHANNA, J.

1. The petitioner Canara Bank in this writ petition impugns the order dated 25th July, 2013 passed by the Principal Bench of the Central Administrative Tribunal (Tribunal, for short) whereby OA No. 153/2013 filed by Angna Ram, the first respondent before us, has been allowed with the direction that the petitioner bank would repay the entire amount deducted from the pension paid to the said respondent. The Union of India through the Ministry of Finance is the second respondent before us.

2. Angna Ram is a pensioner, who had retired from Delhi Police on 31st August, 1996. Angna Ram had opted and was paid commuted pension. As per the Pension Payment Order dated 27th September, 1996 Angna Ram was entitled to basic pension of Rs.725/- per month, and after deducting the commutation of Rs.241/- the residual pension payable from 1st September,

1996 was Rs.484/- per month. The basic pension was revised to Rs.2,139/- with effect from 1st May, 1998, and after commutation of Rs.885/- the residual amount payable was Rs.1,284/-. The basic pension was again revised vide letter dated 10th May, 2000 to Rs.2,395/- from 1st September, 2011 and after commutation of Rs.885/-, the residual pension payable was Rs.1,540/- per month. At the time of revision of basic pension with effect from May, 1998, Angna Ram was paid the differential amount of commutation and gratuity of Rs.72,280/- and Rs.28,875/- respectively. Similarly, the differential amount of gratuity of Rs.6,610/- was paid on revision of basic pension vide letter dated 10th May, 2000.

3. The pension payable to Angna Ram was deposited and paid from his bank account in the Canara Bank at the Shastri Nagar branch, New Delhi. The petitioner had executed an agreement with the said bank dated 16th October, 1996, which had stipulated that the bank was an agent of the Government; and further any excess or wrong payment made would be recovered as per the scheme. It was agreed that if the problems or grievances could not be resolved at the branch or bank level, they would have to be resolved by the concerned sanctioning authority and the issue would have to be taken up by the pensioner with the said authority. Whenever there would be revision of pension as advised by the Government resulting in payment of arrears, the same if payable at the branch level would be paid on receipt of communication through the Reserve Bank of India. However, when the amount of arrears was to be revised by the concerned authority, the same would be paid on receipt of intimation in that regard.

4. Angna Ram by his letter dated 26th August, 2011 had informed Canara Bank that he had been drawing superannuation pension from the Delhi Police from 1st September, 1996. He was paid commuted pension

and as a period of 15 years had lapsed, the pension payable should be restored to basic pension and no amount should be deducted towards the commuted pension paid.

5. Canara bank via communication dated 10th December, 2011, informed Angana Ram that they had erroneously paid him full basic pension without excluding the commuted portion of Rs.241/- per month from September, 1996 to April, 1998; Rs.855/- per month from May, 1998 to August, 2011; and Rs.641/- per month from September, 2011 till 'November, 2011' (wrongly mentioned in the letter as 'September, 2013'). Accordingly, Angna Ram should refund Rs.1,43,462/- (or Rs.1,41,620 as mentioned in some communications) which had erroneously been paid to him till November, 2011. Angna Ram was told that if the aforesaid amount was not received within 15 days, Canara Bank would start deducting the amount from the pension payable as per the bank rules.

6. Angna Ram protested and wrote the letter dated 27th December, 2011 stating that he was just literate and a retired policeman aged about 75 years. He had been simply drawing the pension amount credited to his account every month. His pension was meagre and was not even sufficient for his daily living expenses. He made a request for restoration of full basic pension after 15 years of retirement. He did not have a pass-book for the period prior to 2003 and could not ascertain and verify the actual amount paid. The calculations made were disputed. He had denied any lapse or mistake on his part.

7. In spite of the aforesaid letter of protest written by Angana Ram, Canara Bank started deducting and making adjustments in the pension account. Consequently Angna Ram had sent a legal notice under Section 80 of the Code of Civil Procedure to the Government of India, Ministry of Finance.

8. The Pay & Accounts Officer in their reply to the notice had referred to an earlier letter dated 25th April, 2012 and had enclosed letter dated 9th May, 2012 received by them from Canara Bank, Shastri Nagar, for information. The letter dated 9th May, 2012 written by the Canara Bank records that the Angna Ram, who was being paid pension through his bank account, had been paid excess pension without deduction of the commuted portion and therefore, an amount of Rs 1,43,462/- (or Rs.1,41,620) was recoverable. The petitioner bank had written to Angna Ram for his consent to recover the money, but Angna Ram had not replied. In these circumstances they had recovered a sum of Rs.3,684/- on 20th March, 2012 and Rs.614 /- each on two occasions on 18th April, 2012 and 9th May, 2012 from the pension account.

9. Angna Ram thereafter filed a civil suit before the Senior Civil Judge, Delhi for permanent injunction. The Senior Civil Judge had apparently raised an objection as to the maintainability of the suit or lack of jurisdiction of the civil court to entertain the said suit. The suit was dismissed as withdrawn with liberty to file appropriate proceedings available under the law.

10. In these circumstances Angna Ram had filed OA No.153/2013 praying for setting aside the order dated 9th May, 2012 passed by Canara Bank and the letter dated 11th June, 2012 written by the Pay & Accounts Office, in response to the legal notice sent by him.

11. The impugned order dated 25th July, 2013 accepts the prayers made by Angna Ram and direction has been issued to Canara Bank to repay the amount deducted from Angna Ram's pension account within the next month without interest and thereafter with interest at normal commercial rates. Canara Bank stands directed not to make any further deductions.

12. We are of the opinion that there would be merit in the contention of the petitioner bank that they were mere agents of the second respondent, who were disbursing the pension payable to Angna Ram. Canara Bank has also raised a contention that the said bank is not a notified authority under Section 14 of the Administrative Tribunals Act and, therefore, the Tribunal was not competent to issue the said directions against them and at best directions could have been issued to the second respondent. The second respondent, we record, has not preferred any writ petition. They had not written the letter to Angna Ram for recovery of the said amounts. In the counter affidavit filed before us, the second respondent has urged that the Pay and Accounts Office of the Pension Accounting Office of Delhi Police had verified the pension payable to Angna Ram. The Pay and Accounts Office under special seal Central Pension Accounts Office is required to create a central pension data and forward the pension sanctioned to the pension paying branch of the bank. Central Pension Accounting Office has no mandate to sanction or amend the rates of pension sanctioned by Angna Ram's last office. Further, Central Pension Accounting Office cannot *suo motu* revise the pension and has to await receipt of pension sanction order from the first respondent's last office. The second respondent does not have jurisdiction over others.

13. We would not relegate the first respondent to a civil remedy, as he had earlier filed a civil suit and was asked to approach the appropriate forum for adjudication of his grievance. Given the nature of the dispute, age and financial condition of the first respondent, the issue we believe must be resolved and settled in this writ petition itself. While exercising writ jurisdiction under Articles 226 and 227 of the Constitution of India, and in the light of the aforesaid facts we cannot be oblivious and unconcerned about the financial crisis and crippling consequences that

Angna Ram would suffer in case a just and fair order is not passed. We have noted the paltry and meagre quantum of pension being paid to Angna Ram which, we would observe, by no means is sufficient for day-to-day expenses. To permit and allow recovery of arrears, which have been paid by mistake in the present case, would amount to severe punishment which would push Angna Ram into penury and led him to the verge of starvation and insolvency. We do not think that recovery should be permitted and allowed. In the present case, the judgment of the Supreme Court in ***State of Punjab versus Rafiq Masih***, (2015) 4 SCC 334 would be clearly applicable and the recoveries, if any, being made should be repaid and no recoveries should be made in the future.

14. There is nothing to indicate that the Government of India or the Government of NCT of Delhi has resorted to or sought recovery of any amount. The bank as an agent would have received payments before or after crediting to the pension account of the first respondent. In the given circumstances we do not know whether the bank had in fact suffered any loss, as they have been paid or reimbursed the pension amount. In the given circumstances, we would direct Canara Bank to refund and repay the entire amount recovered by them on account of excess pension paid to Angna Ram. Assuming that the petitioner bank had suffered some loss, it will be open to Canara Bank to take up the issue with the concerned authorities of the Government of NCT of Delhi or the Government of India for reimbursement of the loss etc. caused to the said bank. The concerned, be it is the Central Government or the Delhi Police, would examine the claim made by Canara Bank in accordance with law, keeping in mind the ratio in ***Rafiq Masih*** (supra) and appropriately and amicably resolve the matter.

15. For the aforesaid reasons, we would dispose of the present writ petition with the direction to the Canara Bank to refund the amount recovered from Angna Ram by crediting his pension account within a period of one month from the date a copy of this order is received. In case the amount is not repaid within the said period, the Canara Bank would pay interest @ 10% per annum from the date of deduction till payment. Canara Bank would not make any further deduction from the said account/reason.

16. With the aforesaid modifications and directions, the writ petition is disposed of.

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(SANJIV KHANNA)
JUDGE

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(SUNITA GUPTA)
JUDGE

DECEMBER 1, 2016
VKR/ssn