IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15521 of 2015

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Smt. Lal Moti Devi wife of Late Krishna Chandra Singh, resident of village-Dhanupra, P.O.- Kolwara, P.S.- Saraiya, District- Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Home, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna
4. The Director General of Police, Bihar, Patna
5. The Accountant General (A & E)- II, Bihar, Patna
6. The Chief General Manager, State Bank of India, Local Head Office, Gandhi Maidan, Patna
7. The Assistant General Manager, (Pension), State Bank of India, Anta Ghat, Patna
8. The Branch Manager, State Bank of India, Jaintpur Branch, District-Muzaffarpur
9. The District Treasury Officer, Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar Verma, Advocate
	:	Mr. Suman Kumar Verma, Advocate
For the State	:	Mr. Ankit Katriar, AC to AAG-13
For the Accountant General	:	Mr. Anjani Kumar Sharan, Advocate
For the State Bank of India	:	Mr. Kaushlendra Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 09-10-2017

Heard learned counsel for the parties.

2. By order dated 19.09.2017, the respondent no.6 was directed to be personally present to explain the conduct of the Bank. Learned counsel for the Bank submitted that, as a matter of fact, he was under the impression that vide order dated 19.09.2017 the respondent no.6 was required to be present if supplementary counter affidavit is not filed, as a result of which he did not communicate to respondent no.6 that he was required to appear in person and, thus, the respondent no.6 has not come to the Court. He submitted that a supplementary counter affidavit has already been filed and if that would not be sufficient to explain the conduct and stand of the bank, the respondent no.6 would certainly be in attendance before the Court tomorrow. In view of the submissions made by the learned counsel for the respondent Bank, the Court proposes to hear the case even in absence of respondent no.6.

3. The petitioner, a widow, was receiving her family pension since 2001 from Jaintpur Branch, State Bank of India, Muzaffarpur. The claim of the petitioner in the writ petition is that from the month of July, 2015 her family pension had been reduced without any notice from the Bank. She had prayed that a mandamus be issued to the respondent Bank for resumption of full family pension payable to her.

4. A counter affidavit and a supplementary counter affidavit have been filed on behalf of respondent no.6 to 8 wherein it has been stated that as per pension payment order family pension of the petitioner should have been Rs.1808/- per month i.e. at the normal rate with effect from 13th August, 2005; whereas she was paid Rs.3013/- of the basic pension which is enhanced rate. Subsequently, her basic pension was erroneously revised from Rs.3013/- to Rs.6811/- instead of Rs.4087/- with effect from 1st April, 2007 under the 6th Pay Commission Revision and paid till January, 2013. Thus, she received Rs.6811/- instead of Rs.4087/- per month. Although, she should have been paid Rs.3,90,835/- only but instead of it, she got Rs.6,51,304/-. Resultantly, an excess amount of Rs.2,60,469/- in all was paid to the petitioner. Out of excess amount of Rs.2,60,469/- credited to the account of the petitioner, the bank has adjusted Rs.1,43,558 up to September, 2017 and the balance amount i.e. Rs.1,16,911/- is yet to be adjusted.

5. Mr. K.K.Sinha, learned counsel for the Bank submitted that adjustment is being made at the rate of 2,600/- per month from the pension payable to the petitioner.

6. Having received the copy of the supplementary counter affidavit filed on behalf of the Bank, Mr. Sunil Kumar Verma, learned counsel for the petitioner fairly submitted that if any excess amount has been credited to the account of the petitioner, the bank would be legally entitled to recover the same, but prior to taking such step, it ought to have issued notice to the petitioner and explained her about the excess payment that was credited in her account. He submitted that due to callous attitude of the bank, the petitioner was subjected to harassment and mental agony. She was never communicated why her payable amount of family pension had been reduced as a result of which she was compelled to file the writ petition before this Court. He contended that the petitioner does not raise any grievance so far as recovery of excess payment is concerned, but for mental agony and harassment which she has suffered at the hands of the bank, she needs to be compensated.

7. To such submission made by the learned counsel for the petitioner, learned counsel for the Bank submitted that the bank had no intention either to put the petitioner to harassment or cause to suffer any sort of mental agony to her. However, he conceded that no prior notice was given to the petitioner by the bank before starting recovery of the excess amount credited to her account.

8. Having heard the parties, since the petitioner does not press the writ petition on merits and has agreed that excess payment made to her account by the bank may be recovered at the rate of Rs.2,600/- per month, no mandamus for resumption of full pension to the petitioner need be passed. However, I find force in the submission of the learned counsel for the petitioner that for the undue harassment caused to the petitioner, she needs to be suitably compensated. The old lady had at least a right to know as to why her family pension has been reduced and since the bank never issued her any notice in this regard, I direct the respondents no.6 to 8 to pay a lump sum amount of Rs.20,000/- to the petitioner within four weeks from today as cost of litigation and compensation for mental harassment caused to her. The bank would be at liberty to realize the aforesaid amount from the officials responsible for the lapses in this regard in accordance with law.

9. The writ petition is disposed of with the above observations and direction.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
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