

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.742 of 2014

1. The Manager,
State Bank of India,
Neelam South Street,
Nagapattinam, Tamil Nadu
2. The Manager,
State Bank of India,
Mannargudi,
Thanjavur District. Appellants

-vs-

1. K.Kumaran
2. Central Pension Accounting Office,
Trikoote-2, Bikaji Cama Palace,
New Delhi - 110 066.
3. Deputy Director (Accounts)
CRPF, Home Affairs,
Block No.1, CGO Complex,
Lodhi Road, New Delhi - 110 003.
4. Assistant Director Accounts,
Pay and Accounts Office,
CRPF, K.K.Parisar,
Lodhi Road, New Delhi - 110 003. Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.P No.36507 of 2006 dated 28.11.2013. Writ petition filed under Article 226 of the constitution of India, seeking an order in the nature of writ Mandamus directing the respondents to stop the arbitrary and illegal recovery and also to reply the recovered from his pension.

For Appellant : Mr.K.Chandrasekaran
For Respondents: Mr.D.Prabhumukuntharunkumar -
R1
Mr.J.Madanagopal Rao - R2 to R4

J U D G M E N T

[Judgment of the Court was delivered by
R.SUBRAMANIAN,J.]

The Writ Petition was filed by the first respondent challenging the action of the Bank in recovering a sum of Rs.73,489/-, which according to the Bank was paid in excess to his pension account. The Bank resisted the Writ Petition contending that the commutation of pension made by the first respondent was not taken into account by the Bank, which resulted in the excess payment having been made.

2. The learned single Judge allowed the Writ Petition by quashing the recovery because the same has been made without notice to the first respondent. The learned single Judge directed the bank to recredit the amount that are sought to be recovered from the petitioner. Aggrieved, the Bank is before us in this appeal.

3. We have heard Mr.K.Chandrasekaran, learned counsel for the appellant, Mr.Prabhumukuntharunkumar, learned counsel for the first respondent and Mr.J.Madanagopal Rao, learned counsel for respondents 2 to 4.

4. The contention of the Bank is that they have to make payments as per the pension payment order issued by the second respondent. While crediting the pension an amount of Rs.713/- per month, being the commuted value of pension, was not deducted from the pension, which resulted in excess payment.

5. The learned counsel for the first respondent would submit that since no notice was given to him before the order of recovery, he is unable to find out as to what exactly the deduction represents.

6. We are of the considered opinion that the Bank should have given notice to the first respondent before commencing recovery and heard him on the actual amount that has been paid to him and should have decided on the quantum of excess. The failure to do so has resulted in the learned single Judge allowing the Writ Petition directing the Bank to reverse the entries of recovery made by it. If the first respondent had actually commuted the pension and received the amount, the Bank was justified in making the recovery.

7. We are therefore of the opinion that the order of the learned single Judge has to be set aside and the Bank should be directed to give notice to the first respondent before effecting recovery.

8. For the foregoing reasons, the Writ Appeal is allowed. The order of the learned single Judge is set aside. The Bank shall issue notice to the first respondent on the proposal to recover and decide upon the recovery after hearing the first respondent. Such exercise shall be completed within a period of four weeks from the date of receipt of a copy of this judgment. Till such time, no recovery shall be made. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

sl

To

1. Central Pension Accounting Office,
Trikoote-2, Bikaji Cama Palace, New Delhi - 110 066.
2. Deputy Director (Accounts)
CRPF, Home Affairs, Block No.1, CGO Complex,
Lodhi Road, New Delhi - 110 003.
3. Assistant Director Accounts,
Pay and Accounts Office,
CRPF, K.K.Parisar, Lodhi Road,
New Delhi - 110 003.

+ 1 cc to MR. D. Prabhu Mukunth Arunkumar, Advocate Sr.50300
+ 1 cc to Mr. J. Madanagopal Rao, Advocate Sr.50282
+ 1 cc to Mr. K. Chandrasekaran, Advocate SR.49817

W.A.No.742 of 2014

(CS-IX)
EU(13/08/2018)

WEB COPY