IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3777 of 2019

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Sharda Devi @ Sarada Devi Wife of Late Raj Mangal Sah, resident of Village and P.O.- Dharfari, P.S.- Deoria, District- Muzaffarpur.

... ... Petitioner/s

Versus

1. The State Bank of India through the Chief General Manager, State Bank of India, Local Head Office, West Gandhi Maidan, Patna.
2. The Assistant General Manager, State Bank of India, Centralized Pension Processing Centre, 4th Floor, Administrative Office, Judges Court Road, Anta Ghat, Patna.
3. The Branch Manager, State Bank of India, Red Cross, Muzaffarpur Branch, District- Muzaffarpur.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Vijay Kumar Singh
For the Respondent/s : Mr.Kaushlendra Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

4 02-08-2019

Learned counsel for the bank is permitted to make correction with regard to the amount of family pension indicated in paragraph 8 of the counter affidavit.

Heard learned counsel for the petitioner and learned counsel representing the respondent-Bank.

Petitioner in this case is aggrieved by the communication as contained in letter no.CPPC/RS/R/197 dated 02.01.2019 issued under the signature of the respondent no.2 by which the respondent no.2 has been pleased to direct the petitioner to deposit the alleged excess payment of pension amount of Rs.5,39,403/- within 15 days.

It is the case of the petitioner that after death of her husband petitioner had submitted her pension paper before the authorities concerned for fixation of her family pension and other death-cum-retiral dues. The office of the Accountant General, Bihar fixed the enhanced family pension in favour of the petitioner of Rs.2688/- with effect from 15.11.2002 to 14.11.2009 and normal family pension of Rs.1613/- from 15.11.2009 and onwards and sent it to the District Treasury Officer, Muzaffarpur.

The petitioner had opted to get the pension from her account maintained with the State Bank of India, Red Cross, Muzaffarpur Branch. She used to withdraw her pensionary benefits, but all of a sudden she got the impugned letter. In this connection, she has relied upon the propositions laid down in the case of State of Punjab Vs. Rafiq Masih since reported in AIR 2015 SC 696 to submit that if the payment has been made to the petitioner without there being any fault on her part, the recovery of the alleged excess amount would not be just and proper.

The State Bank of India has filed a counter affidavit in which it is categorically stated that the petitioner was getting enhanced family pension of Rs.2688/- and then Rs.1613/- as claimed by her through her bank account at Muzaffarpur but then the account of the petitioner has been migrated from Muzaffarpur branch of the bank to the Centralized Pension Processing Centre, Patna and inadvertently there her regular pension has been recorded instead of family pension. Due to that, the basic pension paid to the petitioner i.e. Rs.2688/- was revised to Rs.6076/- under 6th Central Pay Revision with effect from 01.04.2007 and subsequently revised to Rs.15606/- under 7th Central Pay Revision with effect from 01.04.2017 whereas the petitioner should have been paid her normal family pension at the rate of Rs.1613 and the revised rate would be Rs.3647/- under 6th Pay Revision and Rs.9373/- under the 7th Pay Revision. The details of the calculation are provided in paragraph 8 of the counter affidavit.

It is submitted that in the aforesaid circumstance, the petitioner has been requested to return the excess paid amount to the bank so that it may be returned to the government accounts. It is also submitted that the petitioner cannot be allowed to say that the amount inadvertently paid to her cannot be recovered as it would amount to undue enrichment on the part of the petitioner.

Although, a rejoinder to the counter affidavit has been filed on behalf of the petitioner, but in the rejoinder the only plea being taken is that the recovery of amount at this belated stage is totally uncalled for and the same is fit to be set aside.

Having heard learned counsel for the parties and on perusal of the records, this Court finds sufficient reasons shown in the counter affidavit of the bank to explain as to why the amount in question be recovered from the petitioner. These are the public money and it cannot be said to be falling in the category of cases which were the subject matter of consideration before the Hon'ble Supreme Court in Rafiq Masih (supra). It is apparent from the records that instead of family pension the petitioner has been paid regular pension which was not payable to her. Learned counsel for the petitioner submits that the bank is recovering a sum of Rs.3749/- each month from the family pension amount of Rs.11490/- which is payable to the petitioner. The action of the bank in recovery of the amount in the manner stated hereinabove seems to be reasonable and no interference is called for.

This writ application has thus no merit. It is dismissed accordingly.

arvind/-

(Rajeev Ranjan Prasad, J)

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