

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6182 of 2019

=====

Kumbha Devi @ Kumha Devi Wife of late Vakil Ram Resident of Village
Surwal, P.O. Jiradai, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Engineer-in-Chief, P.C.D. Bihar, Patna.
2. The Engineer-in-Chief, R.C.D. Bihar, Patna.
3. The Executive Engineer, National High Way Division, Dulzarbagh, Patna- 7.
4. The Assistant General Manager, State Bank of India, Administrative Office
Building, 4th Floor, J.C. Road, Patna-1
5. The Branch Manager, State Bank of India, Jiradei, P.O. and P.S. Jiradai,
District- Siwan.

... .. Respondent/s

=====

Appearance :

For the Petitioner	:	Mr. Rajesh Kumar Sharma, Advocate
For the Respondents	:	Mr. Mahendra Prasad Verma, AC to SC 20
For the Bank	:	Mr. Harshwardhan Sahay, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 22-04-2019

Heard the learned counsel for the petitioner and
the respondent State Bank of India.

2. The petitioner, a widow, is aggrieved by the
order passed by the Assistant General Manager, State
Bank of India dated 04.10.2018 whereby she has been
directed to deposit Rs. 3,10,599/-, as that amount has
wrongly been remitted in her Family Pension Account
because of wrong calculation.



3. The aforesaid letter has been challenged on the ground that the petitioner has been a family pension holder since 2002 and was never made to know that the fixation of amount of the family-pension was because of wrong calculation. Even the order impugned does not refer to the reason for a direction for refund of Rs. 3,10,599/- or in the absence of such refund voluntarily, a direction for recovery from the family pension of the petitioner.

4. Learned counsel for the petitioner submits that if at all any extra money has been deposited, the petitioner cannot be faulted with such wrong remittance of money and therefore no order for recovery could be passed.

5. Learned counsel for the respondent, however, has submitted that this would amount to unjust enrichment and the responsibility of wrong calculation and excess amount being remitted in the Family Pension Account of the petitioner would unnecessarily be saddled on the staff of the State Bank of India.



6. In any view of the matter, nobody can be allowed to have advantage of the mistake of any person.

7. Be that as it may, there is no dispute about the fact that the order dated 04.10.2018 is not a speaking order in as much as the mode of calculation and the method of arriving at the figure of Rs. 3,10,599/- having been paid in excess has been elaborated. Otherwise also, taking into account that the petitioner is a widow who has been getting pension since 2002, it would be rather harsh if she is directed to deposit the entire amount in one go or such amount is recovered from her family pension account.

8. The petitioner, therefore, is directed to make a representation before the Branch Manager, State Bank of India, Jiradei Branch (respondent no. 5) within a period of four weeks from today. On receipt of such representation, the concerned respondent shall cause the calculation to be verified and in case it is found that extra amount has been remitted in the Family Pension Account of the petitioner, the same shall be ordered to be adjusted in future in such



a manner that it does not seriously impinge upon the quotidian life of the petitioner as she has no other means of livelihood but for the family pension. Necessary order in that regard shall be passed by the concerned respondent within a period of eight weeks of the receipt of such representation filed by the petitioner.

9. Till the time the order is passed by the concerned respondent, no recovery shall be made from the family pension account of the petitioner.

10. With the aforesaid direction/observation, the writ petition is disposed of.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.04.2019
Transmission Date	

