

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6500 of 2015

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Jhalak Raj Devi W/o.- Late Sub Ram Bilas Singh, Resident of
Village/Mohalla.- Fazalganj, Post office.- Sasaram, Police Station.- Sasaram
Town, District.- Rohtas Bihar

... .. Petitioner

Versus

1. The Union Of India through the Defence Secretary, Govt. of India, New Delhi
2. The Central Defence Academy P Allahabad.
3. Commanding Officer-cum-assistant record officer, Allahabad.
4. The Chairman/Managing Director of State Bank of India Mumbai.
5. The Chief General Manager, Local head Office, Gandhi Maidan Patna.
6. The Branch Manager State Bank of India, Sasaram, Rohtas Bihar

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Sandip Singh
For the Respondent/s	:	Mr. S.D.Sanjay, ASG
		Mr. Ravinder Kumar Sharma, CGC

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

6 10-07-2019 On the basis of certain audit objection regarding

some excess payment being made to the petitioner on account of

family pension, recovery of an amount of

Rs. 5,67,675/- is sought to be made from the petitioner, wife of

deceased Ex Subedar.

The admitted position is that excess payment was

discovered in an audit operation but prior thereto the same was

determined by the authorities themselves, though it is submitted

that it was wrongly determined. The petitioner is not in any way

responsible for wrong determination. The mistake was



committed by respondent authorities.

Learned ASG has submitted that audit objection has necessitated recovery as admittedly the fixation was wrong.

The petitioner is a widow and allowing recovery of such amount from the her would lead to extreme and sever hardship in view of the grade of service in which her husband was serving and having regard to the law laid down with regard to recovery in the case of *State of Punjab vs. Rafiq Masih* reported in *(2015) 4 SCC 334*.

This Court, therefore, would direct that on account of the order dated 10.11.204 no further recovery shall be made from the petitioner in respect of excess already paid. The respondents however would be fully justified in paying the due amount to the petitioner on account of family pension prospectively.

The writ petition is allowed to the aforesaid extent.

(Madhuresh Prasad, J)

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