

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4815 of 2019

Smt. Rachna Saraswat W/o Late Ajay Kumar Sarswat Aged About 43 Years Assistant Grade III, Directorate Fisheries, New Raipur, District Raipur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Fisheries, Mahanadi Bhawan, New Raipur, Chhattisgarh.
2. Joint Director Treasury And Account, Pension Durg Chhattisgarh.
3. Director Directorate Of Fisheries, New Raipur, Chhattisgarh.
4. Bank Of India Through Branch Manager, Officer At First Floor, Indira Market Durg District Durg Chhattisgarh.

---Respondents

For Petitioner	:	Mr. Syed Majid Ali, Advocate
For State	:	Mr. Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

01/07/2019

1. The only challenge in the present writ petition is to the order (Annexure P/4) dated 26.02.2019, whereby the respondent No.4/Bank has issued an order of recovery of an amount of Rs.50120/-, the amount, which is being ordered to be recovered from the pension payable to the petitioner @ Rs.5012/- per month for a period of 10 months.
2. The facts of the case is that the husband of the petitioner was working as an Assistant Grade-III in the Fisheries Department and who died in harness on 16.06.2015. Subsequent to the death of husband of the petitioner, she has been granted compassionate appointment on 26.10.2015. Meanwhile, the pension payable to the petitioner on the death of her husband was being released to her and inadvertently the petitioner has been paid certain extra allowances along with the

pension amount, which the petitioner would not be entitled for legally as she has already got an employment with the State Government. Thus, the excess amount which has been paid by the respondent No.4/Bank has been ordered to be recovered from the petitioner.

3. The solitary ground which the petitioner has raised in the writ petition is the order of recovery to be bad in law as it has been passed without affording any opportunity of hearing to the petitioner. Secondly the order of recovery is bad in the light of the judgment of Hon'ble Supreme Court in the case of ***“State of Punjab and others etc. vs. Rafiq Masih (White Washer) etc.”*** reported in ***2015 AIR SCW 501***.
4. On the contrary, on a query being put to the counsel for the petitioner, he is unable to give us a plausible explanation that he would take on a notice, which if had been issued by the respondent/Bank. Admittedly, the petitioner has been paid something, which she is not otherwise legally entitled for. The said payment is also not one which has been released to the petitioner long ago. It appears that the petitioner has been paid certain allowances to the basic pension, which the petitioner would not have been entitled for as she is now getting those allowances as a government employee after she is given the compassionate appointment. Moreover, the amount of monthly installment which has been ordered to be recovered also does not seem to be too huge an amount, which needs reconsideration for it to be reduced as of now.
5. Considering the aforesaid given facts and circumstances of the case, particularly taking note of the facts that the alleged excess payment has been made in the recent past. Secondly the petitioner being not legally entitled for the said allowance, this Court is of the opinion that no strong case has been made out by the petitioner calling for an interference

with the impugned order. In case if the petitioner wants that the amount of recovery to be made at a lesser amount, the petitioner would be free to approach the authorities of the respondent No.4/Bank for getting the monthly installment reduced further.

6. With the aforesaid observation, the present writ petition fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

Ved