IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.3159 of 2016
Date of decision: 20.5.2019

Smt. Sunita Mahajan ...**Petitioner**

Versus

The Union of India and others ...**Respondents**

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. R.D.Bawa, Advocate for the petitioner.

Mr. Pawan Kumar Longia, Advocate for respondents no.1 to 6.

Mr. Nitin Jain, Advocate for respondent no.7.

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G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges the recovery of ₹ 2,57,343/- from the family pension of the petitioner as per recovery statement for the period from 15.10.2010 to 31.12.2014 (Annexure P/3) on the basis of corrigendum PPO dated 26.5.2014 (Annexure P/2). Challenge has also been made to the recovery which had already been effected from the family pension in monthly installments including ₹ 31,917/- payable to the petitioner as arrears of revised pension but not paid and adjusted against the said recovery and ₹ 16,000/- also deducted from her pension in lumpsum.

The defence of the respondent No.7 bank is that the petitioner was entitled to draw family pension at ₹ 3,273/- with effect from 1.11.2003 and after the introduction of 6th CPC her revised pension was computed as ₹ 7,399/- per month with effect from 1.1.2006 to 14.10.2010. The employee Parshottam Dass had died on 15.8.2006. Thereafter, family pension was payable at the rate of ₹ 4,510/- per month. The entitlement of the petitioner was thus only to ₹ 4,510/- per month but she continue to receive the pension at the enhanced rate of ₹ 7,399/- which resulted in excess payment of ₹ 2,57,343/-. Further defence of the bank thus is that the petitioner had given an undertaking dated 3.9.2014 (Annexure R-7/1) that in case any excess amount is made to her credit which she was not entitled to, she would refund the same to the bank. Thus, recovery is being effected by the bank in accordance with the Reserve Bank Circular dated 17.3.2016 laying down a uniform procedure for recovery of excess payments made to the pensioners.

Counsel for the petitioner has relied upon the judgment of the Apex Court in **State of Punjab and others Vs. Rafiq Masih(White Washer) etc. 2015(1) SCT 195.**

Counsel for the respondents has pointed out that effect of the said judgment has been filtered down by the Apex Court in subsequent judgment in **High Court of Punjab & Haryana and others Vs. Jagdev Singh 2016(40 SCT 286.**

In the said case also which was pertaining to a Judicial Officer, payment in excess had been made and an undertaking was given at the time when his pay was initially revised accepting that any payment found to have been made in excess would be liable to be adjusted. Accordingly, it was held that the principle enunciated in proposition (ii) that recovery from retired employees, or employees who were due to retire within one year of the order of the recovery cannot be effected was unsustainable on account of undertaking which had been given by the officer.

Similar is the position herein as the petitioner had given an undertaking to the bank binding herself to any loss, suffered or incurred by the bank in so crediting her pension to her account and also authorising the bank to recover the amount due by debiting from her account.

In such circumstances, counsel for the petitioner could not hold out that recovery was being made without any basis. He further submits that the amount which are due should be adjusted against easy equal monthly installments since the petitioner is a family pensioner. He has placed reliance upon paragraph no.12 of the judgment in **Jagdev Singh's case** (supra).

Keeping in view the above, respondent-bank shall recover the excess amount received by the petitioner in easy equal monthly installments which is fixed at the rate of ₹ 2500/- per month.

With the aforesaid observations, the present writ petition is disposed of.

May 20, 2019 **(G.S.SANDHAWALIA)**
Pka **Judge**

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No