IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17322 of 2018

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Baleshwar Singh son of Late Yamuna Singh, Resident of Village- Dhanpur, P.S. Kashichak, District- Nawada.

... ... Petitioner/s

Versus

1. The State Bank Of India Through Chief Manager and Ors
2. The Chief Manager, State Bank of India, Judges Court Road, Patna.
3. The Assistant Chief Manager, Centralised Pension Processing Centre, 4th Floor, Administrative Offic
4. The Branch Manager, State Bank of India, Warisaliganj, District- Nawada.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Devendra Prasad Singh
For the Respondent/s : Mr.Satya Prakashtripathy

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 18-02-2020 This writ application has been filed seeking quashing of letter No. CPPC/Rly/DH/Recovery/17-18/2609 dated 04.04.2018 as issued by the Centralized Pension Processing Centre (hereinafter referred to as ‘ the CPPC’), wherein it has been disclosed that excess payment to the tune of Rs.5,75,259/- has been made in the petitioner’s account wrongly, which is recoverable and the petitioner has been directed to deposit the said amount in appropriate account for the same being refunded to the Government, else the same would be deducted in monthly installments from the petitioner’s pension.

The petitioner superannuated as a Class IV employee, while holding the post of Gateman with effect from 31.12.2004 from East Central Railway, Hajipur, Vaishali. It is his case that on the basis of last pay scale, his pension was fixed at Rs.6,105/- with effect from 01.01.2005. He was being paid his monthly pension by crediting the said amount in his pension account. He suddenly received the said communication of the SBI, CPPC, Patna, disclosing therein about the excess amount having been paid in his account.

A counter affidavit has been filed on behalf of the State Bank of India, stating therein that Centralized Pension Processing Centre at Patna has been established to facilitate the processing of pension through computerized pension processing and maintaining the computerized data relating to pension/family pension of the retired Government employees at a centralized level. In 2007, all the pension relating documents from the branches, situated in the State of Bihar, including the pension relating data of the petitioner maintained at Warisaliganj, have been migrated to the said Centralized Pension Processing Center at Patna for maintaining the data and processing of the pension/family pension. As per the Pension payment order No. 002041396004, petitioner's pension was fixed at Rs.3,053/- per month with effect from 01.01.2005. However, during the migration of pension from the branch to

Centralized Pension Processing Center, Patna, the petitioner's basic pension was fed at Rs. 4,580/- into the pension computerized system. It has been stated that it happened because of the misconception at the end of the Bank that the said pension of the petitioner at Rs.3,053/- was his basic pension. without adding 50% dearness pension. Consequently, his pension has been revised to Rs.6,902/-, corresponding to pension of Rs.3,053/- without dearness pension as per pension revision under 6^{th} central pay revision and Rs.17,739/- (corresponding to pension of Rs.6,902/-) as per pension revision under 7^{th} central pay revision. In fact, the said basic pension of Rs. 3,053/- was after taking into account 50% of dearness pension and corresponding revised pension of Rs.3,053/- with dearness pension was Rs.4,600/- as per the pension revision under the 6^{th} central pay revision and Rs.12,100/- as per the pension revision under 7^{th} central pay revision. The petitioner was getting excess pension due to incorrect feeding of the data since 6^{th} central pay revision.

The anomaly had surfaced when the respondent bank received 7^{th} revised pension payment order issued by the East Central Railway, Hajipur, wherein the petitioner's revised pension was shown as Rs.12,100/-, whereas the petitioner was actually getting at the rate of Rs.17,739/- per month. It is the case of the Bank that in terms of the pension payment order dated 24.09.2017, the petitioner's pension has been re-fixed at Rs.12,100/- and while correcting the anomaly, the said amount to the tune of Rs.5,75,259/- was found to have been wrongly transferred in the petitioner's pension account. This is how the Bank has justified its decision to recover the amount.

It is noticeable that the counter affidavit on behalf of the Bank was filed on 09.04.2019. The petitioner has not filed any rejoinder to the counter affidavit denying the averments made therein. The petitioner does not dispute the stand taken in the counter affidavit filed on behalf of the Bank that he is entitled to monthly pension at the rate of Rs.12,100/- as per pension revision under 7th central pay revision, against which a sum of Rs.17,739/- was being transferred in his pension account by the Bank, apparently mistakenly.

Learned counsel appearing on behalf of the petitioner assailing impugned action has relied on Supreme Court's decision in case of ***State of Punjab v. Rafiq Masih***, reported in **2000 (4) SCC 334** to contend that such recovery shall cause undue hardship to the petitioner, he having retired as Class IV employee of the Indian Railway. He has submitted that the petitioner cannot be held responsible for excess payment made, if any, in his pension account.

Learned counsel appearing on behalf of the Bank, on the other hand, has relied on an undertaking given by the petitioner, a copy of which has been brought on record by way of Annexure R/4 to the counter affidavit, to the effect that he would refund or make good any amount, which is paid to him which he is not entitled to and is credited in his account in excess.

In my view, the Supreme Court's decision in case of ***Rafiq Masih*** (supra) is distinguishable for the reason that the Supreme Court in that case had the occasion to consider the issue of recovery of amount mistakenly paid by the employer. In the present case, there was no mistake on the part of the employer in fixation of the petitioner's pension or revised pension. It was out of sheer clerical mistake at the time of feeding of data in the system of the Bank while undertaking the process of migration for facilitating the process of payment of pension that the anomaly crept in. It was not the employer, who had allowed higher amount to be credited in the petitioner's pension account, rather it was the Bank's mistake, which fact has remained undisputed in the absence of any reply filed on behalf of the petitioner to the counter affidavit of the Bank.

In view of the above and the petitioner's undertaking given to the Bank, I do not find any illegality in the actions of the Bank, requiring this Court's interference. It is like more amount having been credited by the Bank in the account of one of its customers by mistake. Such amount will have to be refunded by a customer of the Bank to the Bank, as he was not entitled to receive the amount, which was deposited in his account by the Bank. I do not find any illegality in the impugned action. I do not find any merit in this application, which is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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