

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5324 of 2019

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Nirmala Devi, aged about 69 years, Female, W/o Late Braj Kishore Pandey,
Res. of Vill.- Brahaman Toli, Chhota Brahmpur, P.S.- Bhagwan Bazar, Distt.-
Saran at Chapra.-841801.

... .. Petitioner/s

Versus

1. The State of Bihar, through Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
2. The Commissioner, Saran Division, Saran.
3. The Collector, Saran at Chapra.
4. The General Manager, S.B.I., Centralised Pension Proceeding Centre, 4th Floor, Administrative Office, Judges Court Road, Patna.
5. The Assistant General Manager, S.B.I., Centralised Pension Proceeding Centre, 4th Floor, Administrative Office, Judges Court Road, Patna.
6. The General Branch Manager, State Bank of India, Rajendra Coll Campus Saran at Chapra Code- 03614
7. The Accountant General (A & E) II, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Tej Pratap Singh
For the Respondent/s : Mr.Subash Chandra Yadav (Gp 15)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 16-06-2020 Heard Mr. Tej Pratap Singh, the learned counsel

 appearing on behalf of the petitioner and Mr. Subash Chandra

 Yadav, the learned G.P.15 through video conferencing.

The petitioner seeks following reliefs:

(i) For issuance of a writ in the nature of certiorari for
quashing the order bearing Letter No. CPPC/RS/R/187 dated
13.12.2018 issued under the signature of the Assistant General
Manager, State Bank of India, Centralized Pension Proceeding
Centre, Patna whereby and whereunder the respondent no.5 has



directed the petitioner to return/refund Rs.2,38,233/- which has been paid as excess amount on the basis of the wrong entry of the date of birth as 14.02.1931 in the pension data.

(ii) For issuance of writ in the nature of mandamus directing the respondent no.5 or respondent no.6 not to withhold the amount of the petitioner deposited in the Account No.10436975263 of the State Bank of India, Rajendra Coll Campus, Saran, Code No.03614.

(iii) For issuance of writ in the nature of mandamus directing the respondent no.5 and respondent no.6 if amount has been recovered then it may be returned to the petitioner's Account No.1036975363.

(iv) For issuance of writ in the nature of mandamus directing the respondents no.5 and 6 not to recover the amount of Rs.2,38,233/-.

(v) To pass such order(s), direction(s) as your Lordships may deem fit and proper in the facts and circumstances of the case.

The admitted facts are that the petitioner is the widow of late Braj Kishore Pandey who was appointed as Assistant in the Collectorate, Siwan. Later on, he was transferred from Collectorate, Siwan to Collectorate, Saran. The husband of the petitioner died and the petitioner filed application for fixation of family pension and vide P.P.O. No. S/B 1347, the family pension



of the petitioner was fixed and it commenced on 18.02.1998 but the petitioner received Letter No. CPPC/RS/R/187 dated 13.12.2018, issued under the signature of Assistant General Manager, State Bank of India by which the petitioner was directed to return Rs.2,38,233/- as the same was paid in excess of the family pension. The Accountant General, respondent no.7, and the State Bank of India, respondents no.4, 5 and 6 filed counter affidavit. The case of the State Bank of India is that on account of wrong entry of date of birth in the pension date, the excess payment has been made to the petitioner and according to the R.B.I. Guidelines and on account of undertaking of the petitioner, Bank is entitled for recovery of excess paid amount. The petitioner did not fill up his date of birth in the column meant for filling date of birth and on account of such, the mistake was committed by C.P.P.C. Department of the Bank.

Learned counsel for the petitioner submits that there is no fault on the part of the petitioner. The C.P.P.C. Department of the Bank, who is authorized to fix the family pension of the petitioner, has committed mistake by entering the date of birth of the petitioner as 14.02.1931 and, therefore, after attaining the age of 80 years, as per the circular of the Government of Bihar, 20% of the amount of pension was enhanced and on account of such entry, the payment was made. It is further submitted that the Hon'ble



Supreme Court in the case of State of Punjab v. Rafiq Masih, reported in (2014) 8 SCC 883, has held that if the salary of an employee is wrongly fixed during the period of his service without the fault of the such employee, after retirement of such employee the amount already received by such employee cannot be recovered on the ground of equity but I find that the judgment cited above is not applicable in this case and the submissions of the learned counsel for the petitioner is not at all acceptable. Admittedly the date of birth of the husband of the petitioner was mentioned in the service book and in the P.P.O., after the death of the husband of the petitioner in the year 1998, the date of birth of the husband of the petitioner has been mentioned as the date of birth of the petitioner and on account of such bona fide mistake, the petitioner was granted 20% excess amount of pension after attaining 80 years of her age. Later on, the C.P.P.C. Department of S.B.I. detected this mistake and rectified the same. Accordingly, the State Bank of India issued direction to the petitioner to deposit the amount failing which the amount shall be withdrawn from the account of the petitioner.

Having considered the facts, I find that on account of human error and the staff of the bank, the date of birth of the husband of the petitioner is mentioned as the date of birth of the petitioner at the time of fixation of family pension, therefore, the



State Bank of India has rightly issued the letter to return the excess amount or the same already paid be withdrawn from the account of the petitioner.

Having considered the facts aforesaid, I do not find any merit in this writ petition. Accordingly, the same is dismissed.

If the date of birth of the petitioner is not mentioned in the P.P.O., the petitioner may file petition before the competent authority for entering her date of birth in the P.P.O. with supporting documents and on such, the authority shall pass order in accordance with law within two months from the date of receipt of such petition.

(Prabhat Kumar Jha, J)

S.KUMAR/-

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