

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14346 of 2019

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Smt. Janaki Devi Wife of Late Krishna Pratap Prasad Singh, Resident of Village and P.O.- Pandooi, P.S.- Jahanabad, District- Jahanabad, at present C/O Suresh Prasad Singh, B-41, Vyas Nagar, P.O.- Ashiana Nagar, P.S.- Rajeev Nagar, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Department of Education, Government of Bihar, New Secretariat, Patna.
2. The Director Primary Education, Government of Bihar, Budha Marg, Patna-800001.
3. The State Bank of India, Through its General manager, head Office, Judges Courts Road, Patna - 800001.
4. The General Manager, State bank of India, head Office, Judges Courts Road, Patna- 800001.
5. The Assistant General Manager (CPPC), State Bank of India, Head Office, Judges Courts Road, Patna- 800001.
6. The Branch Manager, State Bank of India, Gardanbag Branch, At and P.O.- Gardanbag P.s.- Gardanbag Patna -800001.
7. The Branch Manager, State Bank of India, Ashiana Nagar Branch, At and P.O. - Ashiana Nagar, P.S.- Rajeev Nagar, Patna- 800025.
8. The Accountant General, Bihar Patna.
9. The Accounts Officer, Treasury, Bihar, Patna - 800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. M.N. Parwat, Sr. Advocate Mr. Sanjay Kumar Jha, Advocate
For the Respondent/s	:	Mr. Madhaw Prasad Yadav (GP-23) Mr. Sanjay Kumar, AC to GP-23 Mr. Kaushlendra Kr. Sinha, Advocate Mr. Rabindra Kr. Priyadarshi, Advocate Mr. Anjani Kr. Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

6 05-08-2021 The matter has been taken up for hearing online because of COVID-19 pandemic restrictions.

2. The petitioner is widow of late Krishna Prasad



Singh, who, while working as Headmaster in Rajkiya Buniyadi Vidyalaya, Palamu died on 19.07.1986. Consequent upon the demise of the petitioner's husband she is getting monthly family pension. She receives her family pension through the State Bank of India, Gardanibagh Branch in her pension account.

3. She has put to challenge a communication dated 17.09.2018, issued by the Assistant General Manager (CPPC), State Bank of India, Bihar, whereby she has been intimated that a sum of Rs. 2,78,603/- was deposited by the Bank in excess to her entitlement in her pension account. The said amount being a government money, she was asked by the Bank to deposit the same in her account immediately for the same being refunded to the State Government.

4. It is the petitioner's case that no reason was assigned to her how the payment made to the petitioner was found to be in excess of her legal entitlements. She is said to have approached the Bank in this regard. The Central Public Information Officer-cum-Assistant General Manager of the Bank is said to have furnished the petitioner an information sought under the Right to Information Act, mentioning therein that the petitioner's date of birth was wrongly entered and because of such wrong entry, more amount stood credited in her



pension account, giving her age benefit from 01.04.2007.

5. In the counter affidavit filed on behalf of the State Bank of India, it has been stated that inadvertently, in the pension system, regular pension was mentioned instead of family pension. Further though the date of birth of the petitioner is 04.06.1947, it was wrongly mentioned in the system as 05.04.1926. It was because of these wrong entries mistakenly made by the Bank in the pension system, excess payment of 'regular pension' instead of 'family pension' and for age benefit has been paid to the petitioner and, accordingly, in terms of the circular/ guideline issued by the Reserve Bank of India, the excess amount paid to the petitioner is being recovered.

6. Mr. Mahesh Narayan Parwat, learned Senior Counsel appearing on behalf of the petitioner has argued that there is no allegation of fraud or misrepresentation against the petitioner leading to payment of more amount than she was entitled to according to the Respondent Bank. He has further submitted that the respondents have miserably failed to bring on record any material to demonstrate that any undertaking was obtained from the petitioner to recover the amount paid to her in excess, against the pensionary benefits. He has relied on Supreme Court's decision in case of *State of Punjab vs.*



Rafique Masih reported in ***(2015) 4 SCC 334*** to contend that recovery, in the facts and circumstances of the present case, is improper as it causes immense hardship to the petitioner. He has further submitted that the Respondent-Bank has proceeded to recover the amount in question despite interim order of *status quo* granted by this Court.

7. Be that as it may, it is not a case where because of any erroneous decision of the employer or action of the employer more amount was paid to the petitioner than her entitlements. Evidently, it is because of incorrect entry regarding the petitioner's date of birth and mentioning of 'regular pension' in place of 'family pension' at the time of entry in the pension system that more amount stood credited in the petitioner's pension account, maintained by the Bank. Apparently thus, the petitioner received more amount because of certain erroneous transaction made by the Bank/ its personnel.

8. In such circumstance, in the Court's opinion, it will be iniquitous to sustain the petitioner's plea and allow her to retain the amount which was inadvertently deposited in her account because of clerical errors at the time of making entries in the pension system as noted above.

9. The facts of the present case are entirely different



for application of Supreme Court's decision in case of ***Rafiq Masih*** (supra).

10. I do not find any merit in this application, which is accordingly dismissed.

11. There shall be no order as to costs.

(Chakradhari Sharan Singh, J)

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