NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No. 837 of 2021

1. Nilima Haldar, W/o Late Manoranjan Haldar Aged About 63 Years (Retired Sr. Accountant) Occupation - House Wife, Residence - Shiv Chowk, Kali Nagar, Lalpur, District - Raipur Chhattisgarh 492015

---- Petitioner

Versus

1. Accountant General, Chhattisgarh, Vidhan Sabha Road, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

2. State Bank Of India Centralized Pension Processing Cell Behind Working Women Hostel Govindpura, Bhopal (M.P.) 462023, District : Bhopal, Madhya Pradesh **---- Respondents**

For Petitioner	:	Shri Varsha Sharma, Advocate
For Respondent No. 1	:	Ms. Purnima Singh, Advocate
For Respondent No. 2	:	Shri P. R. Patankar, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

23.03.2021

1. The challenge in the present writ petition is to the action on the part of the respondents in initiating a recovery of an amount of Rs. 3,18,885/- from the pension payable to the petitioner.

2. The facts are that the husband of the petitioner was working as a Senior Accountant and retired from service from the office of the Accountant General Raipur. Thereafter, the said employee was receiving his pension regularly and on 25.01.2009, the employee namely Manoranjan Haldar died, thereafter the petitioner was receiving family pension. Recently on 08.01.2020, the respondent No. 2-Bank issued a legal notice to the petitioner intimating the petitioner that in the course of grant of family pension she has been claimed certain amount in excess to what she was otherwise entitled for and the excess payment comes to Rs. 3,18,885/- and the petitioner was directed to deposit the amount or grant permission to recover the same from the monthly pension that was being released to the petitioner.

3. The plain reading of Annexure P/6, the notice dated 08.01.2020 reveals that the petitioner had given in writing the consent for recovery of an amount of Rs. 5,504/-. per month from the family pension that the petitioner was receiving towards recovery of the excess payment. Pursuant to which the respondents-Bank had started the recovery by pay of easy installment.

4. Today, the matter is taken up for hearing, the respondents-Bank submits that the portion of recovery has already been made and the balance amount to be recovered from the petitioner is only Rs. 2,41,829/-. According to the Counsel for the Bank, the said amount is being recovered as per the consent given by the petitioner herself and therefore the same can not be said to be bad.

5. Counsel for petitioner however submits that since the excess payment has been made to the petitioner erroneously the same can not be recovered by the respondents-Bank, therefore the action of recovery should be quashed.

6. Having heard the contention put forth on either side and on perusal of records undisputedly the excess payment made to the petitioner was so far as the family pension that has been released to the petitioner subsequent to the death of her husband i.e. deceased employee.

Therefore, it is not a case where the excess payment was made to the deceased employee rather it is a case where excess payment was made to the petitioner herself and which now she has agreed to be recovered by way of easy installment in-terms-of her own consent as would be reflected from plain reading of Annexure P/6 dated 08.06.2020. While receiving the family pension there was yet another undertaking given by the petitioner on 10.10.2009, wherein the petitioner further had undertaken to refund or recover any sort of excess payment, which the petitioner receives in the course of grant of family pension etc.,

7. Given the said facts and circumstances of the case, this Court does not find any action on the part of the respondents in initiating the recovery proceedings to be in any manner bad-in-law or impermissible under law rather it is only being back with the consent of the petitioner.

8. Today, when the matter is taken up, the counsel for the petitioner submits that even this Rs. 5,504/- which is being recovered is also on the Higher side and the said amount also impermissible should be reduced to some extent so that the petitioner would get a reasonable amount of her consent with which she can reasonably sustain herself.

9. On due consideration of facts and circumstances, this Court is not inclined to interfere with the decision of the respondents-Bank in initiating the recovery proceedings, however the quantum of amount to be recovered in the opinion of this Court needs to be reviewed to some extent so that the petitioner gets a reasonable amount for sustaining. Accordingly, the amount of Rs. 5,504/- which is being recovered by the respondents-Bank is ordered to be reduced to an amount of Rs. 4000/- per month from the family pension payable to the petitioner and the balance of family pension should be released to the petitioner regularly, till the entire balance of amount Rs. 2,41,829 is recovered and thereafter, the petitioner shall be getting full pension regularly..

10. With the aforesaid observation, the writ petition accordingly stands disposed of

Sd/-

P. Sam Koshy
Judge

Jyotijha