

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Order Reserved on 09.08.2021****Order Delivered on 06.10.2021****WA No. 734 of 2018****(Arising out of order dated 08-08-2018 passed by the learned
Single Judge in WPS No. 5039 of 2018)**

1. Sunita Singh D/o Late Karnelias Singh, Aged About 28 Years R/o Dipupara, Tarbahar Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Premlata Singh Wd/o Late Karnelias Singh Aged About 75 Years R/o Dipupara, Tarbahar Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Appellants**Versus**

1. The State Bank of India Through The Chief Manager, Main Branch, State Bank of India, Campus of Ganga Shree Theatre, Old High Court Road Bilaspur District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Chief General Manager, State Bank of India, Local Head Office, Hoshangabad Road, Bhopal, Madhya Pradesh, District : Bhopal, Madhya Pradesh
3. State Bank of India Through Regional Manager (Region -1) Regional Commercial Office, 3rd Floor, Vikas Bhawan, Nehru Chowk Bilaspur District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
4. State Bank of India Through Managing Director, State Bank of India, Nariman Point Mumbai, Maharashtra. (Respondents), District : Mumbai, Maharashtra

---- Respondents

For Appellants	:	Shri Palash Tiwari, Advocate.
For Respondents	:	Shri Abhishek Sinha, Senior Advocate with Shri D.L.Dewangan, Advocate.

Hon'ble Shri Prashant Kumar Mishra, Ag. Chief Justice

Hon'ble Shri Naresh Kumar Chandravanshi J.
CAV Judgment

By

Hon'ble Shri Prashant Kumar Mishra, Ag.Chief Justice.

1. In this intra Court appeal under Section 2 (1) of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006, the appellants (henceforth 'the petitioners') would call in question the order passed by the learned Single Judge, wherein while setting aside the order for recovery of Rs. 1,64,467/- from the petitioners, who are the legal heirs of the deceased Bank employee, has reserved liberty in favour of the respondent to take a fresh decision after granting opportunity of hearing to the petitioners. Learned Single Judge has also observed that in the event, the respondents reached to the conclusion that the amount of pension paid to the petitioners was in excess to what they were otherwise not entitled for, the same may be recovered, but the only caution which the respondents should ensure is that it would be recovered at easy installment.
2. The petitioners are the daughter and widow of the deceased employee late Karnelias Singh, who was working with the respondent/Bank as Messenger and thereafter on the promoted post of Senior Manager. He died in harness on 31-12-2005. The admissible retrial dues were paid to the petitioners, however, their application for grant of compassionate appointment was rejected and were only provided the benefit of *ex gratia*, as per the applicable rules in the respondent/Bank. According to the petitioners, the monthly pension paid to the petitioners was stopped form May, 2018 and thereafter, an order was issued on

12-07-2018 (Annexure P-4 to the writ petition) informing that a sum of Rs.1,64,467/- has been paid in excess to them for the period 01-04-2017 to 30-04-2018, which the petitioners are liable to repay to the Bank.

3. In the above background, the petitioners preferred the writ petition for direction to the respondent authorities to release and pay the monthly pension and quash the recovery letter dated 12-07-2018. The learned Single Judge has quashed the letter of recovery and remitted the matter back to the respondent/Bank for taking a fresh decision after providing opportunity of hearing to the petitioners.
4. Shri Palash Tiwari, learned counsel appearing for the petitioners, would submit that the petitioners were receiving monthly pension of Rs.13,500/-, which cannot be reduced and the order of recovery is illegal being contrary to the principles of natural justice, as the same was passed without affording opportunities hearing to the petitioners. In support of his contentions, Shri Palash Tiwari would refer to the decision rendered by the Hon'ble Supreme Court in the matter of **Union of India and others Vs. Rekha Majhi** (2000) 10 SCC 659.
5. Shri Abhishek Sinha, learned Senior counsel appearing with Shri D.L. Dewangan, Advocate for the respondents, per contra, would submit that the petitioners having signed the indemnity bond (Annexure R-5) agreeing to deduction, if any excess payment is made, they cannot challenge the order of recovery. To buttress his contentions, Shri Abhishek Sinha, learned Senior counsel would place reliance upon the decision rendered by the Hon'ble Supreme Court in the matter of **High Court of Punjab and Haryana & others Vs. Jagdev Singh** (2016) 14 SCC 267.

6. Having heard learned counsel for the parties, we are not inclined to interfere with the impugned order for the simple reason that the learned Single Judge has not dealt with the merits of the matter but has quashed the order against the petitioners on the ground of violation of principles of natural justice. True it is that, the respondent/Bank has again passed an order on 29-08-2018 maintaining the previous order, therefore, the petitioners's grievance of non affording of opportunity of hearing still remains, however, in the facts and circumstances of the case, we dispose of the writ appeal with a direction to the respondent/Bank to issue fresh proper show cause notice to the petitioners for the proposed recovery and reduction in the amount of pension by giving clear fifteen days notice to the petitioners. Thereafter, the petitioners shall file detailed reply within next fifteen days from the date of receipt of notice. The respondent/Bank shall thereafter pass a reasoned order within next eight weeks. It is made clear that the entire proceedings shall be completed within an outer limit of three months from the date of submission of certify copy of this order by the petitioners.
7. There shall be no order as to cost (s).

SD/-

(Prashant Kumar Mishra)
Acting Chief Justice

SD/-

(N.K. Chandravanshi)
Judge