

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1495 of 2023

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Anandi Devi Wife of Late Jiwachh Yadav Resident of Village- Mahindwar,
Ward No.- 12, Police Station- Phulparas, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director Primary Education, Education Department, Government of Bihar, Patna.
4. The District Magistrate, Madhubani.
5. The District Programme Officer, Madhubani.
6. The District Education Officer, Madhubani.
7. The Accountant General, Bihar, Patna.
8. The Treasury Officer, Madhubani.
9. The Chief Manager, Allahabad Bank (Indian Bank), 2nd Floor No. 7, Prakasan Salai opposite- Panagal Park, T. Nagar Chainai, Pin Code- 600017.
10. The Assistant General Manager, Allahabad Bank (Indian Bank) Zonal office, Muzaffarpur.
11. Senior Manager/Branch Manager, Allahabad Bank (Indian Bank), Nanour, District- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Lakshmindra Kumar Yadav, Advocate Mr. Prabhu Nr. Prabhakar, Advocate
For Res. no.1-6 and 8	:	Mr. Madanjeet Kumar, GP20 Mr. Rajeev Ranjan, AC to GP 20
For Respondent no. 7	:	Mrs. Nivedita Nirvikar, Sr. Advocate
For Res. no. 9 to 11	:	Mr. Nishi Nath Ojha, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 19-05-2023 Heard the parties.

The petitioner has preferred this application for the
following relief:

(i) for issuance of an appropriate order,



direction/directions holding that the recovery from pension amount Rs.4,05,062/- (Rupees Four lakh Five Thousand Sixty Two only) PPO No.200911131920, SB A/C No. 21924619991 belonging to her late husband Jiwachh Yadav is wrong;

(ii) for directing the respondents to refund the recovered amount Rs. 4,05,062/- (Rupees Four lakh Five Thousand Sixty Two only) with interest;

(iii) for any other relief/reliefs for which she is entitled to in the particular facts and circumstances of the case.

A look into the writ petition shows that the petitioner is a 72 years old widow of the late teacher who retired on 31.12.2008 and died on 22.10.2017. The document (Annexure-2) dated 21.04.2018 clearly shows that in an English typed document of the then Allahabad Bank, now Indian Bank, the L.T.I of the lady petitioner was taken by the Bank officials without any incorporation of the fact that the same was read over and explained to her in Hindi and which she understood correctly. In the process, Rs. 4,05,062/- was withdrawn/taken away from her account.

Learned counsel for the petitioner has relied upon an order of the Hon'ble Supreme Court in the **State Of Punjab & Ors vs Rafiq Masih (White Washer)** reported in **2015 (1)**



PLJR (SC) 261 with specific reference to paragraph 12 which has been incorporated as follows:

12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service);

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery;

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued;

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though



he should have rightfully been required to work against an inferior post;

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.

Admittedly, the husband of the petitioner superannuated on 31.12.2008 and died on 22.10.2017. It was only thereafter that the Bank came out of deep slumber and recovered Rs. 4,05,062/- from her account. In the process, it created great hardship to the petitioner in continuing with her life having been deprived of a handsome amount.

Further, it is not the case of the respondents Bank that there was any misappropriation or fraud on the part of the petitioner's late husband. Certainly, a widow cannot be made to suffer for the wrong decision of the respondents.

Learned counsel for the Bank (respondent nos. 9 to 11) having gone through the aforesaid case law, accepts that in view of the guidelines issued by the Hon'ble Supreme Court, the petitioner is entitled for the amount.

In view of the aforesaid fair submissions put forward by the rival parties, the present petition stands disposed of with a direction to the Indian Bank to refund the amount back in the bank account of the petitioner bearing SB A/C no. 21924619991



within a period of four weeks from today.

The writ petition stands disposed of.

(Rajiv Roy, J)

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