

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.15611 of 2019**

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Asha Devi, Wife of Late Surendra Prasad Singh, Resident of Village-Sarathua House, Behind Pokhraj Lodge Anaith, P.S. Ara, Nawada, Distt.-Bhojpur.

... .. Petitioner/s

Versus

1. Managing Director, S.B.I. (Net Work-1) Local Head Branch West Gandhi Maidan, Patna 800001.
2. Assistant Managing Director 4th Floor Administrative officer, Judges Court Road, Patna.
3. Manager State Bank of India, Ara Branch, Jail Road, Ara.
4. The District Magistrate, Bhojpur at Ara.
5. The District Programme Officer (Establishment), Bhojpur at Ara.
6. The Principle Madhyamik Vidyalaya, Anaith, Ara.

... .. Respondent/s

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**Appearance :**

|                      |   |                                    |
|----------------------|---|------------------------------------|
| For the Petitioner/s | : | Mr. Nadim Seraj, Sr. Advocate.     |
| For the Bank         | : | Mrs. Namrata Mishra, Sr. Advocate. |
|                      |   | Ms. Archana Jha, Advocate.         |

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**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH**  
**ORAL JUDGMENT**

**Date : 17-08-2023**

Heard Mr. Nadim Seraj, learned counsel appearing on behalf of the petitioner and Mrs. Namrata Mishra, learned senior counsel along with Ms. Archana Jha, learned counsel for the State Bank of India.

2. Vide order dated 08.08.2023, this Court had directed the District Programme Officer (Establishment), Bhojpur at Ara to clarify as to whether any communication was made to the Accountant General in light of the Circular contained in Memo No. 9505 dated 03.09.1964 for reducing



30% pension. In compliance of the direction of this Court, a supplementary counter affidavit has been filed by the respondent no.5 - District Programme Officer, Bhojpur at Ara in which a communication made by the Accountant General, Bihar to the Treasury Officer, Ara has been brought on record directing him to credit family pension into the account of the petitioner at a reduced rate in terms of the Finance Department Circular contained in Memo No. 9505 dated 03.09.1964. In Para-7 of the supplementary counter affidavit, a vague statement has been made that the concerned Bank or the Treasury Officer has to compute the family pension of the petitioner in light of the Circular of the Finance Department. From the records which have been brought on record by way of supplementary counter affidavit and the statement made in Paragraph No.7, it appears that the Treasury Officer, Bhojpur at Ara was required to direct the Bank to credit the family pension after reducing 30% from the pension in light of the Circular contained in Memo No. 9505 dated 03.09.1964. The counter affidavit has been filed on behalf of respondent nos. 1 to 4 – State Bank of India and in Paragraph Nos. 4, 5 and 6, they have not denied with respect to recovery of excess amount from the pension of the petitioner.

3. Considering the statement made in the counter



affidavit filed on behalf of respondent nos. 1 to 4 and counter affidavit and supplementary counter affidavit filed on behalf of respondent no.5, this Court finds that petitioner is not at fault in any manner so far as pension has been credited into her account. Petitioner is a widow and her husband has retired from the post of Assistant Teacher which is a Class-III post. The law with respect to recovery is well settled by the Apex Court in the case of **State of Punjab and Others Vs. Rafiq Masih (White Washer)** reported in **(2015) 4 SCC 334** and in the case of **Thomas Daniel Vs. State of Kerala** reported in **2022 SCC OnLine SC 536**. The respondents-State are under obligation to inform the Bank about the above circular for deciding the pension. However, after giving 20% extra pension into the account of the petitioner for the period from 09.07.2011 to 31.12.2017, the recovery of the family pension which has already been granted to the petitioner will cause great hardship to the petitioner. Several circulars of the Reserve Bank of India is also clear in this regard.

4. The Additional Chief Secretary, Education Department, Bihar is directed to take a final decision in light of the law laid down by the Apex Court in the case of **Rafiq Masih (supra)** and **Thomas Daniel (supra)** considering the fact that



the Stat Government has entered into an agreement with the State Bank of India to disburse the pension into the account of the pensioners and for any incorrect / wrong committed by the officials of the Bank, petitioner should not suffer.

5. With the above observations and directions, the writ petition is disposed of.

**(Purnendu Singh, J)**

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