March 21, 2023
(124) ARDR

WPA 26835 of 2022

Shampa Pal
Vs.
Indian Bank & Ors.

Adv. Sanjukta Dutta,
...for the petitioner.
Adv. Samapti Ray,
...for the respondent Bank.

The petitioner's grievance is that the entirty of the family pension has been stopped being paid by the respondent bank to her since January, 2022. The petitioner was receiving family pension since the death of her husband in September, 2013. Her husband was an employee of Allahabad Bank, which has now merged with the Indian Bank/respondent. The petitioner's husband was superannuated from the services in 2012 and thereafter was receiving his pension. The petitioner received the pension till December, 2021.

From a report on affidavit filed on behalf of the respondent bank and retained with the records, it appears that there has been a miscalculation on behalf of the bank in computing the amount of family pension payable to the petitioner. The petitioner was granted pension as was payable to her deceased husband instead of family pension. From a computation sheet annexed to the report on affidavit it appears that a sum of Rs.8,92,386.42 is over paid to the petitioner being the difference in the payable amount of pension from September, 2013 till December, 2021. The said excess amount has been calculated till January 31, 2023.

Ms. Dutta, learned counsel appearing on behalf of the petitioner submits that the petitioner is facing extreme financial constraints since the entirety of the family pension has been stopped by the bank. The petitioner if finding it difficult to maintain herself.

The excess, if any, paid by the bank to the petitioner is not on account of any fraud or misrepresentation on the part of the petitioner.

Ms. Ray, learned counsel appearing on behalf of the Bank submits that the amount overpaid to the petitioner is being recovered by the bank by stopping the family pension.

Considering the rival submissions of the parties and materials placed on record, this Court finds that the petitioner has been granted pensionary benefits that was due and payable to her husband instead of family pension that was receivable by her. The said amount was paid to the petitioner not due to mistake on the part of the Bank and not due to any fraud or misrepresentation on the part of the petitioner. It would be unjust if the bank now is allowed to recover the entirety of the overpaid amount of pension by completely stopping the family pension to the petitioner. In any event, from January, 2022 till March, 2023 the entirety of the family pension was stopped by way of recovery from the petitioner.

Such a course of action cannot be permitted by the Court in the interest of justice since the hardship faced by the petitioner being a widow of the retired employee has to be taken into consideration and the same far outweighs the inconvenience suffered by the Bank due to over payment.

The bank will pay the petitioner a sum of Rs.15,000/- (Rupees fifteen thousand only) per month out of the admitted sum of Rs. 23,119.80 that is payable to the petitioner per month on account of family pension and adjust the remaining amount towards any sum that has been overpaid to the petitioner. In calculating the amount that has been overpaid to the petitioner, the bank will take into consideration the circular that has been annexed to the writ petition at page 27. It has to be calculated by the bank whether the petitioner's husband has passed away before the age of 65 years or before the period of seven years from the date of which the retired husband was receiving his pension. Since the petitioner's husband retired in 2012 and died in 2013, it appears to this Court that the petitioner's husband received pension only for about one year. The family pension will be granted to the petitioner month by month from the month of April, 2023.

With the directions aforesaid, **WPA 26835 of 2022** is **disposed of**.

All parties shall act on the serve copy of this order duly downloaded from the official **website** of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of all formalities.

(Lapita Banerji, J.)