

In the High Court of Punjab and Haryana at Chandigarh
119

2023:PHHC:084835

CWP No. 14088 of 2023

Date of Decision: 06.07.2023

Usha Rani

---Petitioner

versus

State Bank of India and others

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Deepak Gupta, Advocate
for the petitioner
Mr. Vikas Chatrath, Advocate
for respondents No. 1 to 3

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking setting aside of demand notice dated 13.09.2019 (Annexure P-1) whereby respondent-bank has proposed recovery of Rs. 10,33,595/- from deceased husband of the petitioner. The petitioner is further seeking setting aside of order dated 28.02.2023 (Annexure P-4) whereby respondent-bank has recovered Rs. 80,000/- from family pension account of the petitioner.
2. Learned counsel for the petitioner inter alia contends that husband of the petitioner retired on 31.07.2016 from 36 FAD (Field Ammunition Depot), Bathinda. On account of implementation of 7th pay commission, the husband of the petitioner was extended benefit of enhanced pension as well arrears. The respondent-bank on 13.09.2019

issued demand notice calling upon husband of the petitioner to pay a sum of Rs. 10,33,595/- which as per respondent-bank was wrongly paid in excess of actual entitlement of the deceased employee. The husband of the petitioner passed away on 14.09.2020. The petitioner being wife of deceased employee cannot be asked to make payment towards any excess payment which respondent-bank had paid to deceased employee. It is even otherwise settled proposition of law that in case of excess payment where there is no fault of the employee, the department cannot make recovery.

3. Mr. Vikas Chatrath, Advocate, for respondent-bank, who on advance notice is present in Court, submits that deceased husband of the petitioner has not filed reply to demand notice, thus, matter could not be adjudicated. The petitioner may be directed to file reply to the demand notice and if reply comes to be filed, appropriate order including personal hearing would be passed. He further submits that respondent-bank shall also consider whether recovery of excess payment made to deceased employee can be made from family pension.

4. In view of statement of learned counsel for the respondent-bank and without commenting upon merits of the case, the present petition is disposed of with liberty to the petitioner to file reply to impugned demand notice. In case of filing of reply within four weeks from today, the respondent-bank shall pass a speaking order after granting opportunity of hearing to the petitioner. It is made clear that till the adjudication of demand notice, no recovery shall be

effected from the petitioner.

(JAGMOHAN BANSAL)
JUDGE

06.07.2023

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Whether speaking/reasoned : Yes

Whether reportable : Yes/No