IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4763 of 2023

Smt. Sulochana Devi Resident of Village-Mahsoni, Post Office-Kajra, Police Station-Piri Bazar, District-Lakhisarai

... ... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Rural Works Department, Govt. of Bihar, Patna.
3. The Executive Engineer, Rural Development Special Division No.2 Motihari, under the then Rural Works Development Department (Now Rural Works Division Bikramganj).
4. The Assistant General Manager, State Bank of India, J.C.Road, Patna-800001.
5. The Chief Manager, State Bank of India, Branch, Lakhisarai, Awadh Complex Naya Bazar, Lakhisarai.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Siya Ram Shahi, Advocate Ms. Shally Kumari, Advocate
For the Respondent/s	:	Mr. Mahendra Pratap, AC to GP-6
For the SBI	:	Mr. Apurv Harsh, Advocate Mr. Raghu Raj Pratap, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 06-02-2024

Heard Mr. Siya Ram Shahi, learned counsel appearing on behalf of the petitioner, Mr. Apurv Harsh, learned counsel representing the State Bank of India and Mr. Mahendra Pratap, learned AC to GP-6.

2. The petitioner, who is claiming herself to be wife of Late Indranand Rajak, has filed the writ petition under Article 226 of the Constitution of India, seeking quashing of Ref. No. 22-23/22.5.2021 dated 09.01.2023, issued by the Chief Manager, S.B.I., Lakhisarai Branch, whereby the request has

been made to the Assistant General Manager, State Bank of India, J.C. Road, Patna for recovery of an amount of Rs. 8,24,753/-, from the account of the petitioner, which has been paid excess to her entitlement towards family pension.

3. A counter affidavit has been filed on behalf of the respondent SBI. It is submitted that the husband of the petitioner was working as Class – III employee in Rural Works Department, who died on 18.09.2001, and afterwards the family pension was issued vide P.P.O. Order No. S/103259 dated 02.04.2002. However, at the time of audit, it has been detected by the Bank that due to an error, an excess amount of Rs. 8,24,769/- has been paid to the petitioner, for the period 01.09.2008 to 30.11.2022. It has further been clarified that the family pension was paid from 01.11.2015 to 31.03.2017, with basic pay of Rs. 5,989/-, while the basic pay for such period should be Rs. 3,594/-. Similarly, the pension was paid from 01.04.2017 to 30.11.2021 with basic pay of Rs. 15,392/-, while the basic pay for the said period should be Rs. 9,237/- and thus, an error has occurred as the family pension was wrongly opened as regular pension account.

4. In support of the action for recovery of the excess amount, reliance has also been made on the undertaking given

by the pensioner, which is brought on record by way of Annexure – 3 to the counter affidavit. He next submitted that the deduction is being made as per the guidelines issued by the Reserve Bank of India dated 01.07.2020, which is the only surviving guideline, covers the present dispute. Referring to clause 3 thereof, Mr. Apurv Harsh, learned counsel for the Bank further submits that the pension paying bank will credit the pension amount in the accounts of the pensioner’s based on the instructions given by respective Pension Paying Authorities and as soon as the excess/wrong payment made to the pensioner comes to the notice of the paying branch, the branch should adjust the same against the amount standing to the credit to the pensioner’s account to the extent possible and if the entire amount of over payment cannot be adjusted from the account, the pensioner may be asked to pay forthwith the balance amount. In case of inability, the recovery of the over payment shall be made in installments to the pensioner from his future pension payment in installments, as per 1/3rd of net (pension + relief) payable each month.

5. At this juncture, Mr. Siya Ram Shahi, learned counsel for the petitioner candidly submits at the bar that though so far the excess amount paid to the petitioner is concerned, i.e.,

admittedly on the part of the Bank and, as such, the petitioner cannot be blamed and held responsible for that. He further submits that from the record, it is manifest that the petitioner is getting a meager family pension amount to the tune of Rs. 14,117/- and the deduction is being made to the tune of Rs. 4,582/- and, as such, she is facing acute financial crunch, that too, for her no fault. He next submitted that though the petitioner is not intended to assail the order of the recovery, but for the ends of justice, she seeks indulgence of this Court only to the extent that the deduction may be made to the tune of Rs. 3,000/- per month from her family pension, so that she would be able to take care of her day to day expenses, in the winter of her life.

6. He further contended that the family pension of the petitioner has been suspended on 1st January, 2023 and the same has been started from July, 2023 and thus, the family pension of such period, may be adjusted against the excess paid amount, if not paid to the petitioner.

7. Considering the submissions advanced on behalf of the parties and especially, the fair submissions on behalf of the petitioner, that she is ready to pay the excess paid amount, but only with a reasonable installment. In view of the prayer and

only for the ends of justice, this Court direct the respondent Bank to reconsider the matter afresh, and fix any other lesser installment amount, e.g. to the tune of Rs. 3,000/- per month, or likewise, which shall be deducted from the family pension of the petitioner, with effect from March, 2024 onwards.

8. Accordingly, the present writ petition stands disposed of, with the aforesaid observation and direction.

(Harish Kumar, J)

shivank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.02.2024.
Transmission Date	NA