24.06.2026
Item No.42
Court No.01

WP.CT 117 of 2023

Punjab National Bank & anr.
- Versus -
Union of India & ors.

Mr. Abhishek Banerjee,
Ms. Parna Roy Choudhury,
Ms. Trisa Chanda
...for the petitioners
Mr. Ashok Kr. Chakraborty, Ld. A.S.G.,
Mr. S.N. Dutta
....for the respondent nos.1 to 3

The present writ petition, preferred at the instance of Punjab National Bank (hereinafter referred to as “the Bank”), assails the legality and propriety of the order dated 30.08.2022 passed by the learned Tribunal below in O.A. No. 350/01334/2016 (hereinafter referred to as “the OA”). The fundamental question that arises for consideration in the present writ petition is whether the recovery of an excess amount paid by the Bank towards pensionary benefits to a retired railway employee would be impermissible in law, having regard to the principles enunciated by the Hon’ble Supreme Court in the decision reported in *2015 (4) SCC 334 [State of Punjab and Ors. vs. Rafiq Masih and Ors. (White Washer)]*.

The facts giving rise to the present writ petition are that respondent no. 4, namely, BholaNath, retired from service on 31st December, 1994 while serving as Shunting Master (Grade-I) under the Divisional Railway Manager, Eastern Railway, Sealdah, in the pay scale of Rs. 1400–2300/-.

Respondent no. 4 had opened his pension account with United Bank of India (which was subsequently merged with Punjab National Bank), Agarpara Station Branch, and was receiving pensionary benefits through the said Branch. Subsequently, respondent no. 3, namely, the Senior Divisional Finance Manager, Eastern Railway, Sealdah, issued a revised Pension Payment Order dated 10th May, 2016, whereby the basic pension of respondent no. 4 was re-fixed at Rs. 5,585/- and the family pension was re-fixed at Rs. 3,500/- with effect from 01.01.2006. Pursuant to the said order, the pension of respondent no. 4 was re-fixed and the Bank started recovering an amount of Rs. 1,74,748/- by deducting the same from his pension. As on date, the Bank has recovered the entire amount by making such deductions from his pension in 52 equal monthly installments.

Challenging the legality of the Pension Payment Order dated 10.05.2016 and questioning the justification of recovery of the alleged excess amount by way of deduction from his pension, respondent no. 4 filed an Original Application being O.A. No. 350/01344/2016 before the learned Tribunal below. It was contended by him before the learned Tribunal that he had retired from service while drawing pay in the old scale of Rs. 1400–2300/-, which was subsequently replaced by the scale of pay of Rs. 5000–8000/- in terms of the recommendations of the Fourth Pay Commission. According to respondent no. 4, the said scale was thereafter revised to the scale of Rs. 9300–34800/- with Grade Pay of Rs. 4200/- in terms of the recommendations of the Sixth Pay Commission. It was, therefore, his contention that his pension was required to be fixed at 50% of his basic pay and Grade Pay, i.e., 50% of Rs. 9300/- + Rs. 4200/-, amounting to Rs. 6750/-, and accordingly, the pension fixed by the Bank was justified. However, the subsequent revision of such pension without affording him any opportunity of hearing was illegal and unsustainable in law.

It was the specific case of the Bank that although the basic pension of respondent no. 4 was Rs. 5,585/- w.e.f. 1.1.2006, the same was erroneously fixed at Rs. 6,750/- by the Bank. Subsequently, upon detection of such erroneous fixation of the basic pension, the excess amount of Rs. 1,74,748/- drawn by respondent no. 4 was recovered by deducting the same from his pension at the rate of Rs. 3,400/- per month.

The record would reveal that by an order dated 30.08.2022, the OA came to be disposed of. The said order reflects that the learned Tribunal, while applying the principles laid down in *Rafiq Masih* (supra), held that since, in the present case, there was no misrepresentation or fraud on the part of respondent no. 4 in the fixation of his basic pension, recovery of the excess amount paid by the Bank was not sustainable in law. Accordingly, the Bank was directed to refund the amount so recovered to respondent no. 4 within the time stipulated therein. Aggrieved by the said order, the Bank has preferred the present writ petition.

Ms. Roy Chowdhury, learned advocate appearing for the writ petitioner/Bank, submits that, in terms of the recommendations of the Sixth Pay Commission, the pension of respondent no. 4 was re-fixed at Rs. 5,585/- with effect from 01.01.2006. However, owing to an inadvertent error, respondent no. 4 was granted pension at the rate of Rs. 6,750/- pursuant to the revised PPO dated 13.11.2012. She submits that, thereafter, a clarification was sought from the Senior Divisional Finance Manager, Eastern Railway, who, in turn, issued a revised Pension Payment Order dated 10th May, 2016, wherein it was clearly stipulated that the basic pension of respondent no. 4 stood fixed at Rs. 5,585/- with effect from 01.01.2006. Accordingly, it was contended that respondent no. 4 had received excess payment towards pensionary benefits.

Referring to the document annexed as Annexure–P4, appearing at page 34 of the writ petition, Mr. Ray Chowdhury submits that, at the time of disbursement of pension, respondent no. 4 had furnished an undertaking whereby he had agreed to refund or make good any amount paid to him to which he was otherwise not entitled. She submits that respondent no. 4 cannot now take a stand contrary to the said undertaking. Referring to the Office Memorandum dated 16th May, 2018 issued by the Ministry of Finance, Government of India, she submits that, in terms of the guidelines issued by the Reserve Bank of India, if any excess or erroneous payment is made to a pensioner, the Bank is entitled to adjust the same as and when such excess or erroneous payment comes to the notice of the paying Branch.

Therefore, according to her, there is no illegality in recovering the excess payment by way of adjustment from the pension of respondent no. 4. She further submits that since there exists no employer–employee relationship between the Bank and respondent no. 4, the principles laid down in the decision of *Rafiq Masih* (supra) would have no application in the facts of the present case. According to her, the learned Tribunal erred in directing the Bank to refund the amount recovered from the pension of respondent no. 4 by applying the principles laid down in *Rafiq Masih* (supra). In support of her contention, she places reliance upon the decision reported in *2021 SCC OnLine Ker 2566* [*Assistant General Manager, SBI & Anr. vs. S. Saradamani & Ors.*].

Mr. Dutta, learned advocate representing the respondent no. 1 to 3/Union of India submits that Bank has never been instructed to pay basic pension at the rate of Rs. 6750/- to the respondent no. 4 on and from 2012 and therefore, the employer being the Railway Authority cannot be held liable for the wrong committed by the Bank. He submits that on being approached by the Bank the Railway Authority vide its order 10th May, 2016 clarified that the respondent no. 4 was entitled to receive basic pension at the rate of Rs. 5585/- with effect from 01.01.2006.

Despite service, respondent no. 4 is unrepresented. Heard the learned advocate appearing for the respective parties and perused the materials on record.

The order of the learned Tribunal indicates that, before the Tribunal, it was submitted on behalf of the Railway Authority that respondent no. 4 retired on 31st December, 1994 in the scale of pay of Rs. 1400–2300/-. His last pay drawn was Rs. 1560/- with effect from 01.01.1986. The corresponding scale of pay, as per the recommendations of the 5th Pay Commission, was Rs. 4500–7000/- with effect from 01.01.1996, and as per the recommendations of the 6th Pay Commission, his pension was revised to Rs. 5585/- with effect from 01.01.2006.

Such a submission advanced by the Bank could not be contradicted and/or refuted by respondent no. 4 before the learned Tribunal, and no plausible explanation had been given, nor had any document been placed on record to demonstrate as to how his basic pension was required to be fixed at Rs. 6750/- per month w.e.f. 1.1.2006. However, the learned Tribunal proceeded on the reasoning that there was no material on record to establish that respondent no. 4 had played any role or had misrepresented facts or practised fraud in the fixation of his basic pension at Rs. 6750/- at any point of time. Accordingly, the Tribunal directed the Bank to refund the amount deducted from the pension of respondent no. 4 by applying the principles laid down in the decision of *Rafiq Masih* (supra).

Indisputably, there was no employer–employee relationship between the Bank and respondent no. 4, and the employer of respondent no. 4 had never instructed the Bank to fix his initial pension at the rate of Rs. 6750/- per month at any point of time. Therefore, in the facts and circumstances of the present case, the excess/wrong payment was made by the paying branch of the Bank, and as such, we find substance in the submission advanced on behalf of the Bank that the application of the principles laid down in the decision of *Rafiq Masih* (supra) cannot be sustained.

It is also an admitted position that respondent no. 4 had himself furnished an undertaking to the Bank, agreeing to refund or make good any amount paid to him to which he was not entitled. In this context, useful reference may be made to the decision reported in *AIR 2016 SC 3523 (High Court of Punjab & Haryana vs. Jagdev Singh)*, wherein, while considering the principles laid down in Rafiq Masih (supra), the Hon'ble Supreme Court took note of the specific undertaking furnished by the employee at the time of pay fixation to refund any excess payment received by him. The Hon'ble Supreme Court, accordingly, upheld the recovery of the excess amount paid to the employee beyond his entitlement, even after his retirement.

Moreover, the Office Memorandum dated 6th May, 2018 issued by the Ministry of Finance, Government of India, empowers the paying branch of any Bank to adjust the excess and/or wrong payment made to a pensioner as and when the same comes to the notice of the Bank. Therefore, the Bank has also not acted illegally in deducting the amount from the pension of respondent no. 4. Since the learned Tribunal has glossed over the aforesaid issue, the order dated 30th August, 2022 passed by the learned Tribunal cannot be sustained. Accordingly, the writ petition succeeds and the order dated 30th August, 2022 is set aside.

With this observation and order, the writ petition is disposed of. There shall be no order as to the costs.

(Partha Sarathi Chatterjee, J.) **(Tapabrata Chakraborty, A.C.J.)**