

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.623 of 2022

In

Civil Writ Jurisdiction Case No.8386 of 2021

CNR No. BRHC010937982022

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1. The State Bank of India through its Manager, Centralised Pension Processing Centre, 4th Floor, Administrative Office (Anta Ghat), J.C. Road, P.S.- Pirbahore, Patna - 800004.
 2. The Manager, State Bank of India, Marhowrah Branch (Branch Code No. - 3211), P.S. - Marhowrah, District- Saran.

... .. Appellant/s

Versus

1. Rajkali Devi @ Raj Kali Kuar Wife of Late Rameshwar Singh @ Ramaishwar Singh Resident of Village - Manorpur, P.S. - Amnaour, District- Saran.
2. The State of Bihar, through the Principal Secretary, Road Construction then Public Works Department (P.W.D.), Govt. of Bihar, Patna.
3. The Principal Secretary, Road Construction Department then Public Works Department (P.W.D.), Government of Bihar, Visheshvaraiya Bhawan, Bailey Road, Patna-800001.
4. The Executive Engineer, Road Construction Department then Public Works Department (P.W.D.), Saran at Chapra.
5. The Accountant General, Bihar, Patna, A.G. Office, Beerchand Patel Path, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Rakesh Kumar Singh
For the State	:	Mr.Ms. Usha Kumari, GA 13
		Mr. Manoj Kumar Sinha, AC to GA 13
For respondent no. 1	:	Mr. Sanjay Kumar Singh
For the Accountant General :		Dr. Anand Kumar
		Ms. Vijeta Kumari

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

and

HONOURABLE MR. JUSTICE VIKASH KUMAR

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA)

Date : 28-10-2026

The present letters patent appeal has been preferred by
the appellant-State Bank of India against the judgment, dated



30.09.2022, passed by the learned Single Judge, in C.W.J.C. No. 8386 of 2021, whereby the writ petition filed by the respondent no. 1-writ petitioner was allowed and the decision of the appellant-Bank to recover a sum of Rs. 3,51,020/- towards excess payment of family pension was quashed.

2. The facts giving rise to the present appeal are that the husband of the respondent no. 1, late Rameshwar Singh, retired from service on 30.06.1982 while working as a Road Mazdoor in the Public Works Department, Saran at Chapra. He was granted pension with effect from 01.07.1982 and died on 09.01.1988. After his death, the respondent no. 1, being his widow, became entitled to family pension and she started receiving the same through the Marhowrah Branch of the appellant-Bank. The family pension was paid continuously for several years.

3. During the course of processing and subsequent scrutiny of the pension account, certain entries were found to be erroneous in the pension processing system of the Bank. The nature of the pension, in the case of the respondent no. 1, had been entered as “regular pension” instead of “family pension”. The date of birth of the respondent no. 1 was also entered in the Bank as 02.03.1922. As a consequence of these erroneous entries, even after revision of pension under the Sixth Central Pay Commission,



the old-age benefits continued to be paid by the appellant-Bank by treating her as a regular pensioner.

4. The Bank subsequently detected the aforesaid error and corrected the pension category from regular pension to family pension. On recalculation, the Bank took the stand that an excess amount of Rs. 3,51,020/- had been paid to the respondent no. 1 during the period from 01.04.2007 to 30.11.2018.

5. The alleged excess payment had continued for a period of more than eleven years before the recovery was initiated. By letter, dated 17.12.2018, the respondent no. 1 was informed that an excess amount of Rs.3,51,020/- had been paid to her towards pension and the same was required to be refunded. In December, 2018 itself, the appellant-Bank reduced the monthly family pension of the respondent no. 1 from Rs.15,445/- to Rs.7,196/-.

6. Challenging the aforesaid recovery of the pension amount, the respondent no. 1 approached this Court by filing C.W.J.C. No.8386 of 2021. The case of the respondent no. 1-writ petitioner before the learned Single Judge was that the alleged excess payment was the result of an error committed by the appellant-Bank itself and there was no act or omission on the part of the respondent no. 1-writ petitioner. It was her further case that



she had no role in fixing the pension and she had not contributed to the excess payment. She further pleaded that she was dependent upon the amount of family pension given to her for her survival and recovery from such meagre amount of pension would cause hardship to her.

7. The learned Single Judge, upon consideration of the materials on record, found that the excess payment had resulted from erroneous entries made by the officials of the appellant-Bank and there was no material suggesting any misrepresentation or fraud on the part of the respondent no. 1-writ petitioner. It was also noticed that the excess payment of Rs. 3,51,020/- had continued from 01.04.2007 to 30.11.2018, covering a period of about eleven years and eight months. The learned Single Judge held that the appellant-Bank was not justified in recovering the excess family pension from the respondent no. 1-writ petitioner. The decision of the Bank to recover the aforesaid excess amount was quashed. The letters, dated 17.12.2018 and 30.12.2021, issued by the Assistant General Manager, Centralized Pension Processing Centre, State Bank of India, Patna, concerning recovery of the excess pension were also quashed.

8. Learned counsel appearing for the appellant-Bank argued that the learned Single Judge has erred in quashing the



recovery of Rs. 3,51,020/- paid in excess to the respondent no. 1-writ petitioner. The excess payment was not the result of any lawful determination of her family pension. The pension processing system of the Bank had erroneously recorded her pension as “regular pension” instead of “family pension” and her date of birth as 02.03.1922. On account of these erroneous entries, the old-age benefit continued to be extended to her even after revision of pension under the Sixth Central Pay Commission, though she was receiving family pension. Upon detection of the error, the Bank corrected the pension category and found that an excess amount of Rs.3,51,020/- had been paid during the concerned period.

9. It has further been submitted that the respondent no. 1-writ petitioner had no substantive entitlement to the amount which was paid to her on account of the erroneous entries in the pension-processing system of the Bank. The mere fact that the error was committed by the Bank cannot create entitlement to the respondent no. 1-writ petitioner to retain the amount, which was never payable to her.

10. The respondent no. 1-writ petitioner had given an undertaking by putting her thumb impression, where she agreed to refund or make good any amount which was subsequently found to



have been credited in her account in excess of the amount payable to her. The learned Single Judge erred in treating that undertaking as inconsequential merely because the undertaking was not given in the context of a revised pay fixation.

11. Reliance, in this regard, has been placed on the decision of the Hon'ble Supreme Court, in the case of **High Court of Punjab and Haryana & Ors. v. Jagdev Singh**, reported in **(2016) 14 SCC 267**.

12. Learned counsel submits that the principle emerging from **Jagdev Singh** (supra) is that where the recipient has expressly undertaken to refund any excess payment, the equitable protection against recovery cannot be invoked ignoring such undertaking.

13. Learned counsel thereafter contended that the learned Single Judge has placed great reliance on the decision of the Hon'ble Supreme Court, in the case of **State of Punjab v. Rafiq Masih**, reported in **(2015) 4 SCC 334**, without examining whether the facts of the present case justify an absolute prohibition against recovery. The respondent no. 1 was not deprived of her family pension. The Bank only corrected the erroneous benefit which had been extended to her because her pension had been wrongly treated as regular pension in place of family pension and



due to her advance age, she was being given the benefit of enhancement of regular pension.

14. The governing principle is that an amount paid without entitlement cannot ordinarily be retained merely because the excess payment resulted from a bona fide mistake of the authority.

15. Reliance is placed on the decision of the Hon'ble Supreme Court, in the case of **Chandi Prasad Uniyal & Ors. v. State of Uttarakhand & Ors.**, reported in **(2012) 8 SCC 417**, wherein the Hon'ble Supreme Court held that excess public money paid due to wrong or irregular fixation can be recovered, subject to the limited equitable exceptions recognized by the Court.

16. The learned Single Judge has not properly appreciated the distinction between the existence of an error in making the payment and the right of the respondent no. 1 to retain the amount after the error is detected.

17. Learned counsel next points out that the recovery was not made by directing the respondent no. 1 to deposit the entire amount of Rs. 3,51,020/- at once. The Bank adjusted Rs. 3,614/- per month from the family pension of Rs. 11,530/- and continued to credit Rs.7,916/- per month to the respondent no. 1. Till July, 2021, only a sum of Rs.1,12,024/- was recovered. The



manner of recovery, therefore, was itself so well structured in order to avoid any immediate financial burden upon the respondent no. 1.

18. Per contra, learned counsel appearing for the respondent no. 1-writ petitioner argued that the learned Single Judge has rightly quashed the recovery of Rs. 3,51,020/-. The respondent no. 1 is an illiterate widow and had no role either in fixation of her family pension or in the calculation thereof. The excess payment resulted entirely at the end of the Bank. There was no misrepresentation or fraud or concealment on the part of the respondent no. 1-writ petitioner. The respondent no. 1 had only received the pension as calculated and credited by the Bank. The Bank cannot shift the consequence of its own error upon an illiterate widow of advance age by recovering a substantial amount from her family pension. The undertaking relied upon by the Bank cannot be treated as an absolute authority to recover the amount in the facts of the present case.

19. The learned Single Judge, having found that the excess payment was attributable to the Bank's own error and there was no fraud or misrepresentation on the part of the respondent, rightly interfered with the recovery. The judgment under appeal calls for no interference and deserves to be dismissed.



20. Having considered the rival submissions and the materials on record, the question which arises for consideration is whether, in the facts and circumstances of the present case, the appellant-Bank was justified in recovering the excess payment of family pension amounting to Rs. 3,51,020/- from the respondent no. 1-writ petitioner.

21. There can be no quarrel with the proposition laid down in **Chandi Prasad Uniyal** (supra) that an amount paid in excess of the recipient's lawful entitlement does not become legally payable merely because the payment was made through a bona fide mistake. The absence of fraud or misrepresentation, by itself, does not extinguish the right of the payer to seek recovery. The principle, however, has to be applied keeping in view the exceptional circumstances in which recovery may become inequitable, harsh or arbitrary. The decision, in the case of **Rafiq Masih** (supra), recognizes that the right to recover an excess payment and the equitable considerations governing its enforcement are distinct matters.

22. It appears that there is no material to suggest that the respondent no. 1 had any role in the erroneous classification of her pension or that she possessed the requisite knowledge to appreciate that the amount being credited to her account was in



excess of her entitlement because she was an illiterate lady and is the widow of the late employee, who retired as Mazdoor. The respondent no. 1 herself was not an employee of the Bank, the family pension represented a continuing benefit flowing from the employment of her husband.

23. The relationship between the employer, the pension disbursing agency and the family pensioner cannot, therefore, be examined exclusively through the prism of an ordinary monetary transaction. The circumstances involving in the case does not confer upon her a right to retain every amount paid in excess. , but it is undoubtedly relevant in determining whether recovery, in the particular facts of the case, would be equitable.

24. In paragraph 14 of the **Chandi Prasad Uniyal** (supra), the Hon'ble Supreme Court has held that any amount paid/received without authority of law can always be recovered barring few exception of extreme hardship, but not as a matter of right.

25. The age of the respondent no. 1 is another material for consideration inasmuch as at the time when the error was detected and recovery was initiated, she was around 89 years of age, during which she received the family pension in the ordinary course. No material has been brought on record to show that she



had accumulated or retained the excess amount or she was keeping it as a separate fund or that she was financially in a position to refund it without serious hardship. On the contrary, the recovery was sought to be effected from the very family pension upon which she was depended for her livelihood.

26. This Court is conscious that public money cannot be permitted to be retained merely on grounds of sympathy and an institution cannot be deprived of its lawful right to recover an amount only because its own mistake remained undetected for a considerable period. At the same time, **Chandi Prasad Uniyal** (supra) does not require the Court to disregard the exceptional hardship which may arise in an individual case. The principle of recovery has to be applied alongside the equitable limitations recognized in **Rafiq Masih** (supra), particularly where the Court finds that the hardship caused to the recipient would substantially outweigh the financial interest sought to be taken by the recovery.

27. The existence of an undertaking does not dispense with an examination of the circumstances in which recovery is sought, particularly where the recipient is an illiterate widow of advanced age, at present 94 years, the error originated entirely in the Bank's own records, and the additional payment continued for more than eleven years.



28. In the circumstances, the equitable balance cannot be determined solely by reference to the amount paid in excess. The appellant-Bank's interest in correcting its accounts and recovering amount not lawfully payable is undoubtedly legitimate; however, the manner in which that right is enforced must also withstand scrutiny on the touchstone of fairness and proportionality. The exceptional hardship likely to be caused to the respondent no. 1, having regard to her advanced age and dependence upon family pension, outweighs the justification for continuing the recovery against her in the manner impugned in the writ petition.

29. The Court is not laying down any general proposition that an excess payment of pension can never be recovered if the error is attributable to the pension disbursing authority nor it is holding that the absence of fraud or misrepresentation creates an absolute bar to recovery. The decision turns upon the cumulative effect of the exceptional circumstances established in the present case, the advanced age of the respondent no. 1, her illiteracy, her complete lack of involvement in the erroneous pension classification, the prolonged continuation of the Bank's own error, the absence of any material indicating deliberate receipt of an undue benefit and the substantial impact of the monthly deductions upon her family pension.



30. The learned Single Judge has interfered with the recovery in the peculiar facts and circumstances of the case and as such, has committed no error warranting interference by this Court in the present appeal.

31. In the result, this appeal cannot succeed and is dismissed accordingly.

32. The interlocutory application(s), if any, also stands disposed.

(Anil Kumar Sinha, J.)

Vikash Kumar, J.:- I agree.

(Vikash Kumar, J.)

Prabhakar Anand/-

AFR/NAFR	AFR
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