

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member

Case No. – OA-172 of 2024

SANDHYA CHAKRABORTY -- VERSUS – The State of West Bengal & Ors.

Serial No.

and

Date of
order

For the Applicant : None

For the State Respondent Nos. 2 : None
and 3

3
13.12.2024

For the Principal Accountant : Mr. Biswanath Mitra,
General (A&E), West Bengal Departmental Representative

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No.638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under section 5(6) of the Administrative Tribunals Act, 1985.

Despite advance notice and several calls, none has appeared today either on behalf of the applicant or on behalf of the State Respondents 2 and 3.

The applicant has prayed for a direction to the respondent authority not to deduct the amount of Rs. 3668/- from her family pension account. The applicant has also prayed for refund of the amount already deducted from her pension.

Mr.Auddy submits that as per the P.P.O. the applicant was to receive an amount of Rs.11,58,957/- as cumulative instead, by error, she received 19,31,759/-, thus she has overdrawn an excess amount of Rs.7,72,802/- which is being deducted from her family pension @ Rs.3668/-. Mr. Auddy also refers Section 72 of the Indian Contracts Act, 1872 and submits that this very Act enables the respondent authorities to deduct the excess amount by which to the recipient, if any. Mr. Auddy files copies of Judgements dated 02.01.2019 in W.P.No. 328 (W) of 2017.

Attention is drawn to a memo of State Bank of India dated 05.05.2022 by which the applicant was informed of the overdrawal amount and the plan for recovery of ₹3,668/- every month. The memo also attaches the calculation sheet by which in the column no. 1, the total pension paid from 09.06.2008 to 28.02.2022 is shown at ₹19,31,759/-. The same paper also shows the next table by which ₹11,58,957/- is shown as the actual pension payable. The excess amount

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already paid and to be recovered is shown at ₹7,72,802/-. The learned counsel appearing for respondent nos. 2 and 3 also draws attention to a copy of an 'undertaking' given by the pensioner, agreeing to recover any excess amount.

Ms. Pal, learned counsel, appearing on behalf of the applicant, though not disagreeing and disputing with the figures shown in the documents, however, stresses her point that for the pensioner, being 78 year old, such deduction of alleged excess amount has been deducted from the past 14 years of the pension she has been receiving. Further, Ms. Pal also feels that the famous judgment in the case of "*State of Punjab and Others v. Rafiq Masih (White Washer) and Others*" reported in (2015) 4 SCC 334 of the Hon'ble Apex Court in para 18 also applies in this matter, therefore, the respondent authorities do not have any right to deduct an amount already paid as family pension from the pensioner's account.

Mr. Auddy, learned counsel appearing on behalf of the respondent nos. 2 and 3, files copies of judgments in the cases of (i) "*High Court of Punjab and Haryana and Others v. Jagdev Singh*" reported in (2016) 14 SCC 267, (ii) "*Bharathi Knitting Company v. DHL Worldwide Express Courier Division of Airfreight Ltd.*" reported in (1996) 4 SCC 704 and (iii) "*Sri Murari Mohan Das v. Union of India and Others*".

Having heard the submissions of the learned counsels and after examination of the records in this application, the Tribunal finds that the applicant's side has not disputed the fact of the overdrawn amount amounting to Rs. 7,72,802/-. Had this been so, the applicant would have definitely agitated claiming that the amount she had received amounting to Rs. 19,31,759/- was the correct amount of her family pension, but she has not, instead, she questions the very legitimacy of the Bank in recovering the excess amount from her family pension account. The Tribunal also finds that she had given an undertaking in writing to the Branch Manager of the State Bank of India on 08.04.2022, agreeing to refund any excess amount, if credited to her account. The detailed statements provided by the Bank as respondent in this application have month-wise shown her entitlements with the

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excess amount disbursed to her, erroneously. By a correspondence 8552, dated 29.03.2022, the Bank had intimated the applicant the details of the excess amount disbursed to her by mistake. The excess amount of Rs. 7,72,802/- is being deducted from her monthly family pension @ Rs.3,668/- every month.

Thus, the Tribunal is of the view that in the instant case, the applicant had furnished an undertaking to refund the excess amount, if by mistake credited to her account by Bank and by such undertaking she is bound to accept the action of the Bank in deducting the amount of Rs.3,668/- every month from her family pension. Therefore, the Tribunal does not find any illegality on part of the Bank in taking such a decision. Thus, this application is disposed of without passing any orders.

SCN.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON
and MEMBER (A)

WEST BENGAL ADMINISTRATIVE TRIBUNAL