

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

This is the 13th day of August 2021

ORIGINAL APPLICATION NO. 330/00560 of 2020

HON'BLE MR. TARUN SHRIDHAR, MEMBER (A)

Smt. Siyapati Devi, aged about 79 years, Wife of Late Shiv Nath Singh,
Resident of Village Post Ganja, Bamrauli, Tehsil Sadar, Prayagraj.

.....**Applicant**

By Advocate: Shri Vinod Kumar/Shri B.S Srivastava

Versus

1. The Union of India through its Secretary, Ministry of Defence, Sansad Bhawan, New Delhi.
2. The Principal Controller of Defence Accounts (Pensions) Dropadighat, Prayagraj.
3. Defence Pensions Distribution Officer, T 55 MTRC (Lines) Prayagraj.
4. Commandant, COD Chheoki Naini, Prayagraj.

.....**Respondents**

By Advocate: Shri Ram Chandra Sahu

ORDER

Shri Vinod Kumar, learned counsel for the applicant and Shri Ram Chandra Sahu, learned counsel for the respondents are present.

2. The applicant is a widow whose late husband was posted as a Mazdoor in the establishment of the respondents. It is pertinent to mention here that the late husband of the applicant was holding a position in the lowest rung of the hierarchy. Subsequent to his death, the applicant is in the receipt of family pension.

3. Vide order dated 5.5.2020 bearing No. DPDO/Alld./P05706, the DPDO has ordered a recovery of Rs.2,06,364/- on a small issue that the date of birth of the applicant in the Pension Payment Order (PPO) has been wrongly registered. It is nowhere the case of anyone that the applicant has done any misrepresentation or is responsible in any way for an incorrect recording of the date of birth in the PPO. The said recovery of the aforesaid amount has been ordered @ Rs.3000/- per month.

4. Learned counsel for the applicant argues that making a recovery at this stage is not only patently unfair but also violative of principles of natural justice as no notice was served upon the applicant nor any opportunity afforded to her. He further draws attention to the law laid down by Hon'ble Supreme Court in the case of State of Punjab and others Vs. Rafiq Masih, and says that effecting recovery in the instant matter would violate the principles enunciated by the Hon'ble Supreme Court in that case.

5. Learned counsel for the respondents, on the other hand, argues that this is a case, where the applicant has been in receipt of an amount towards which she did not have any rightful claim. Hence, respondents are within their right to effect the recovery. He further points out that the principles laid down in the Rafiq Masih (supra) case would not be applicable in the instant case. He draws support from the case of Chandi Prasad Unniyal Vs. State of Uttarakhand.

6. I have heard learned counsel for the parties and have gone through the record. I have absolutely no doubt in the matter that impugned order cannot be sustained. The applicant has been in fact in receipt of family

pension and whatever entries have been made in the various documents and records, has been done by the respondents on the basis of their official record. At a later stage correcting their own mistake by effecting recovery from the applicant falls in the teeth of reason or natural justice. Moreover, there is further no doubt that the principles laid down by the Hon'ble Supreme Court in the State of Punjab Vs. Rafiq Masih do not allow any scope to the respondents to affect recovery from the applicant, who is the widow of the lowest paid employee of the department.

7. In view of this argument, the OA is allowed and the impugned order dated 5.5.2020 is quashed. The respondents are directed to refund the amount, which has already been recovered from the applicant pursuant to the impugned order. Respondent specifically respondent Nos. 3 and 4 shall ensure that these orders are complied with within six weeks from the date of receipt of a certified copy of this order. No order as to costs.

(TARUN SHRIDHAR)

Member (A)

Manish/-