

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**O.A No. 180/00861/2017**

Wednesday, this the 7<sup>th</sup> day of November, 2018.

**CORAM:**

**HON'BLE Mr. E.K. BHARAT BHUSHAN, ADMINISTRATIVE MEMBER**

K.A. Bhanumathy, 92 years,  
W/o. P.K. Somanathan (late),  
Poonthodath, Santhi Nagar, Thevara,  
Kochi – 682 013.

- Applicant

[By Advocate Mrs. Girija K. Gopal]

**Versus**

1. The Pay & Accounts Officer,  
Indian Audit & Accounts Department,  
Office of the Principal Accountant General (A&E),  
Kerala, M.G. Road, P.B. No. 5607,  
Thiruvananthapuram – 695 001.
2. The Chief Manager,  
State Bank of India (former SBT),  
Ravipuram Branch, 1<sup>st</sup> Floor,  
Mercy Estate, Ernakulam,  
Kochi – 682 015.
3. The Chief Manager,  
State Bank of India (CPPC),  
Vazhuthacaud, Thiruvananthapuram – 695 014. - Respondents

[By Advocate : Mr. K.I. Mayankutty Mather for R-1]

The application having been heard on 31.10.2018, the Tribunal on 7<sup>th</sup> delivered the following:

## **ORDER**

**Per: Bharat Bhushan, Administrative Member**

O.A No. 861 of 2017 is filed by Smt. K.A. Bhanumathy, who is a Central Government pensioner. She seeks the following reliefs:-

- “(i) Declare that respondents 2 and 3 is not entitled to recover any amount from the pension of the applicant towards any alleged excess payment made after a long period of time and which is continued to be paid for more than five years.*
- (ii) To set aside Annexure A-1 and A-7 orders issued by respondents 2 and 3 directing to recover amounts from the pension of the applicant.*
- (iii) To direct the respondents 2 and 3 to refund the entire amount recovered as per Annexure A-1 and A-7 with 12% interest to the bank account of the applicant forthwith.*
- (iv) Award costs incidental to this application and*
- (v) Pass such other orders or directions which are deemed just, fit, proper and necessary in the facts and circumstances of the case.”*

2. Applicant had retired from service as Senior Grade Auditor, Accountant General's Office, Kochi on 31.05.1983. The 2<sup>nd</sup> respondent Bank issued Annexure A-1 stating that 3<sup>rd</sup> respondent had advised, as per Annexure A-3, that the basic pension of the applicant is to be revised as Rs. 18,612/- from 22,336/- resulting in Rs. 3,19,866/- to be recovered from the pension of the applicant and calling upon the applicant to remit the said amount in bulk. The 2<sup>nd</sup> respondent initiated a recovery of Rs. 6,495/- per month for 50 months.

3. The applicant is now 92 years old and her representations to the 2<sup>nd</sup> respondent have elicited no favorable response. On the contrary, the 3<sup>rd</sup> respondent issued Annexure A-7 letter along with Annexure A-8 calculation statement stating that an excess pension amounting to Rs. 4,15,510/- was paid to the applicant and as per re-structuring

monthly recovery of Rs. 6,495/- to Rs. 9,200/- with effect from 01.10.2017 for 41 months was also done. It is to be noted that the mistake had been committed by 2<sup>nd</sup> and 3<sup>rd</sup> respondents and the applicant had no role whatsoever for the same. In fact, it is claimed that the mistake had occurred from the year 2006 with the pension being deducted only in 2017. 2<sup>nd</sup> respondent had already recovered Rs. 59,460/- from the pension of the applicant from April, 2017 onwards till September, 2017 based on the erroneous calculation statement at Annexure A-2 and 3<sup>rd</sup> respondent has issued Annexure A-7 enhancing the amount of recovery. The applicant stresses that she has been forced to suffer the penalty without being given an opportunity to be heard. She calls to her assistance the judgment of the Apex Court in ***State of Punjab and Others v. Rafiq Masih (White Washer) (2015) 4 SCC 334.***

4. Notices were served on respondent Nos. 1, 2 and 3. The 1<sup>st</sup> respondent is erstwhile employer, who is Principal Accountant General (A&E), Thiruvananthapuram, whereas, 2<sup>nd</sup> and 3<sup>rd</sup> respondents are Chief Managers of State Bank of India, which is the disbursing agency. Respondent No. 1 appeared through counsel and has also filed reply statement. However, respondent No. 2 and 3, representatives of disbursing Bank, despite notice being served on them have chosen not to put in an appearance and were declared as ex-parte.

5. In the reply statement filed on behalf of 1<sup>st</sup> respondent, the onus of the recovery has been shifted to the shoulders of disbursing Bank represented by respondent No. 2 and 3 declared as ex-parte. It is maintained by respondent No. 1 that they have no role in the wrong estimation of pension nor in the ensuing recovery. Further, during hearing, learned counsel for respondent No.1 drew our attention to Annexure A-6, which reads as follows:-

“No. PAO 03/GL/II/1355  
To  
The Manager,  
State Bank of India,  
CPPC, Chempikalam Buildings,  
Vazhuthacaud, Trivandrum.

25.09.2017

Sir/Madam,

*Sub: Revision of pension of Smt. K.A Bhanumathy, Holder of PPO  
No. 626998300214- SBI SB A/c. No. 57009897837 (SBI  
Ravipuram Branch)  
Ref: 1. CPAO Lr. No. 626998300214/1995575/A1 diary No. PR  
216033699 dt. 18.10.2016  
2. Lr.from Smt Bhanumathy K.A dt. 15/09/2017*

*As per the 1<sup>st</sup> reference cited, revised pension of Rs. 7242/- is authorised to Smt Bhanumathy K.A with effect from 01.01.2006. As per Sl. No. 6 of the above sanction she is eligible for additional pension (80 years and above) as applicable from time to time i.e. Addl. 20% from 01/01/2006, 30% from 01/05/2010 , 40% from 01/05/2015 etc. But from the statement by bank attached with the reference 2<sup>nd</sup> cited it came to know that an amount of Rs. 3,19,866/- is to be recovered from Smt Bhanumathy which is not correct. She is eligible for additional pension from 01/01/2006 onwards. Please rectify the mistake and do the needful.*

*Yours faithfully,*

*Sd/-*

*Pay & Accounts Officer*

*Copy to*

*Smt. K.A Bhanumathy  
W/o/ Late P.K. Somanathan, 26/2028(53/597)  
Poonthodath, Santhi Nagar, Thevara.”*

6. As stated already, the applicant is a pensioner in her 90s and it is nothing short of a scandal that the disbursing Bank chose to foist recovery of a substantial sum, allegedly an over payment on account of mistake by the Bank, on the shoulders of this elderly woman. The Bank having chosen not to make an appearance before this Tribunal in spite of notice being served on them, we can only come to the conclusion that the action of the respondent Nos. 2 and 3 in initiating recovery is perverse and illegal. The pension granting authority by attributing the entire mistake to the disbursing agency have washed their hands off the entire matter. On the basis of the facts before us, we have no hesitation in allowing the relief sought in full. It is further stressed that the entire amount recovered as per Annexure A-1 and A-7 is to be returned to the applicant with interest @ GPF rate within 30 days from the date of receipt of a copy of this order.

7. O.A is disposed of accordingly. No order as to costs.

(Dated, 7<sup>th</sup> November, 2018.)

**(E.K. BHARAT BHUSHAN)**  
**ADMINISTRATIVE MEMBER**

ax

Applicant's Annexures

- Annexure A1 - Copy of letter Ref. No. Nil dated Nil send by 2<sup>nd</sup> respondent to applicant.
- Annexure A2 - Copy of calculation statement dt. 10.04.2017 sent by 2<sup>nd</sup> respondent to the applicant.
- Annexure A3 - Copy of letter No. 626998300214/1995575/A1 Diary No. PR216033699 dt. 18.10.2016 of CPAO, New Delhi sent by 2<sup>nd</sup> respondent.
- Annexure A4 - Copy of representation dt. 15.09.2017 send by applicant to 2<sup>nd</sup> respondent.
- Annexure A5 - Copy of letter dt. 15.09.2017 sent by applicant to 1<sup>st</sup> respondent.
- Annexure A6 - Copy of reply letter dt. 25.09.2017 by 1<sup>st</sup> respondent to applicant.
- Annexure A7 - Copy of reply letter Ref. No. CPPC/e-SBT/267 dt. 03.10.2017 send by 3<sup>rd</sup> respondent to applicant.
- Annexure A8 - Copy of calculation statement dt. 25.09.2017 sent by 3<sup>rd</sup> respondent to the applicant.
- Annexure A-9 - Statement of SB Account of applicant from 02.01.2006 to 01.05.2017 issued by the 2<sup>nd</sup> respondent.
- Annexure A-10 - Copy of the O.M. No. E. No. 18.03.2015-Estt. (Pay-1) dated 02.03.2016.

Annexures of Respondents

NIL

\*\*\*\*\*