

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD**

Dated: This the 30th day of August, 2019.

HON'BLE Mr. RAKESH SAGAR JAIN, MEMBER – J

**Original Application No.330/01027 of 2017
(U/s 19, Administrative Tribunals Act, 1985)**

1. Km. Soni Srivastava, aged about 27 years, D/o Late Shitla Prasad, Resident of Omkar Nagar Maniram, Tehsil Sadar, District Gorakhpur.
2. Dharmendra Kumar Srivastava, son of Late Shitla Prasad, Resident of Omkar Nagar Maniram, Tehsil Sadar District Gorakhpur.

.....**Applicants**

By Adv: Shri Ashish Kumar

V E R S U S

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager, North Eastern Railway, Lucknow.
3. Senior Divisional Finance Manager, North Eastern Railway, Lucknow.
4. Divisional Personnel Officer, North Eastern Railway, Lucknow.
5. Nodal Officer, State Bank of India, Railway Pension Payment, Head Branch, Bank Road, Gorakhpur, through its General Manager.

..... Respondents

By Adv: Shri M.K. Yadav

Shri R.K. Srivastava

Shri Amitabh Kumar Sinha (Respondent No.5)

ORDER

2. The applicants have filed this OA for quashing the impugned order dated 29.06.2017 (Annexure A-1) by which applicant No.1 has been required to return Rs.10,24,331/- received as family pension between 4.11.2007 and November 2014.

3. Learned counsel for the applicants while relying on the judgment passed by the Division Bench of Hon'ble Allahabad High Court in the case of **Ramkali Vs. U.P Power Corporation Ltd. and others** reported in **MANU/UP/2577/2017** contended that excess payment made to the pensioner due to mistake of department/Bank cannot be recovered from the pensioner.

4. It appears that the applicant No.1 being minor daughter of her deceased father late Shitla Prasad was issued a P.P.O dated 2005 (Annexure A-4) under which she was authorized to get family pension from 8.7.2005 till 4.11.2007 (till attaining the age of majority) but due to mistake of Bank, she received family pension upto 30.11.2014. It is not disputed that an unmarried daughter is entitled to get the family pension till she remarries and unemployed and all the formalities to this effect have already been completed. In view of law laid down by Hon'ble Supreme Court in the case of **State of Punjab and others Vs. Rafiq Masih (White Washer) and others** reported in **(2015) 4 SCC 334** and judgment in Ramkali (supra), the excess amount paid to the applicant, being a pensioner, cannot be recovered from her.

5. Heard Shri Anil Kumar proxy counsel to Shri Ashish Kumar, learned counsel for the applicants, Shri Manish Kumar Yadav, learned counsel for the respondents and gone through the pleadings on record as well as written submission filed by the respondents.

6. One thing is very clear that no recovery of the excess amount can be recovered from the applicant. However, in their written argument, respondents have taken the plea that the applicant be directed to submit requisite 'No Dues Certificate' from the Bank so as to enable the respondents to issue the revised P.P.O in favour of the applicant.

7. Respondents should take a pragmatic view of the entire case. Surely, the respondents are not expecting the applicant to somehow arrange the sum of Rs.10 lakhs and deposit the same with the respondents and thereafter the respondents again repay her the sum of Rs.10 lakhs being arrear of the family pension she would be ultimately entitled to.

8. As per interim order dated 20.12.2017, it has been noted therein that applicant No. 1 has already completed the formalities. However, applicant No. 1 is directed to furnish a 'No Dues Certificate' from the Bank to enable the respondents to issue the revised PPO. It is made clear that the 'No Dues Certificate' would not be dependent upon the refund of Rs.10,24,331/- by the applicant. It is not nobody case that the pension was wrongly paid to the applicant No.1 or that the amount of pension was wrongly fixed.

9. Accordingly, the O.A. is allowed with the direction to the respondent No. 1 to 4 to pay the family pension to the applicant No.1 w.e.f. November 2014 as the said pension was stopped from November 2014, after issuing revised PPO from due date i.e. 05.11.2007 and adjust the family pension amount Rs.10,24,331/- which has been already paid to the applicant for the period of 05.11.2007 to 30.11.2014 in joint account of applicant No.1 and applicant No.2 after completion of formalities under Rules. No order as to costs.

(RAKESH SAGAR JAIN)

Member (J)

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