

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.20/422/2018

Date of Order: 27.06.2019

Between:

S.P. Surya Narayana Murthy, Gr. C
S/o Late Sri S V V L Gangadharam
Aged 69 years, R/o D.No.39-18403,
Flat No.301, S.S.R. Residency
Near TDP Office, Madhavadhara,
Industrial Estate P.O,
Visakhapatnam 530 007.

... Applicant

AND

1. Union of India rep., by its Secretary,
Ministry of Defence
South Block, New Delhi – 110 011.

2. Naval Admament Depot rep by
Its Chief General Manager
NAD, Visakhapatnam 53009.

3. The Principal Controller of Defence Accounts (Pensions)
EDP/GI/Civil/Navy, Draupadhighat,
Allahabad – 211 014.

4. The Manager, Andhra Bank
St. Ann's School Branch,
Butchirajupalem,
Visakhapatnam – 530 027.
Respondents ..

Counsel for the Applicant ... Dr. P.B.Vijaya Kumar.

Counsel for the Respondents ... Mr. T. Hanumanth Reddy, Sr. PC for CG

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER
{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

2. The OA is filed assailing the order of recovery from pension.
3. Brief facts, which need to be adumbrated, are that the applicant retired from the respondents organisation on 30.6.2009 and was granted pension. Monthly pension of Rs.23,613/- was suddenly reduced to Rs.16,463/- in March 2018 due to erroneous excess amount of Rs.1,40,000/- paid to the applicant. A wrong restoration of the commutation of Rs.3500/- per month for 40 months from November 2014 to February 2018 has led to the excess payment. Aggrieved, over the recovery, OA is filed.
4. Contentions of the applicant are that the excess payment was made due to the mistake of the bank/pension authority. Applicant has undergone two bypass surgeries and is under constant medical check-up. Similarly, his wife is suffering from old age related issues, thereby medical expenses

have increased manifold. Action of the respondents is against the legal principle laid down by the Hon'ble Apex Court in **State of Punjab & Others v. Rafiq Masih**, (2015) 4 SCC 334.

5. Respondents, in a single line rebuttal, dismissed the claim of the applicant stating that it is the responsibility of the banker in disbursing the pension and not that of the respondents. The mistake is that of the banker and, therefore, the issue rests with the banker.

6. Heard both the counsel and perused the documents placed on record.

7. I) Applicant after serving the respondents organisation for nearly 35 years as Torpedo Fitter retired from service. He is now 66 years with two bypass surgeries done and his wife too is suffering from old age ailments. It is but natural to expect medical expense to shoot up. Under the said circumstances any reduction of pension would have a severe adverse impact on the financial condition of the applicant and his family. This is a grievance which needs close and immediate attention.

II) Applicant is a retired employee of the Group 'C' category. No recovery can be made from his pension as he has neither misrepresented nor did he misguide or did he commit a fraud to receive the excess

payment made. The case is fully covered by the judgment of the Hon'ble Superme Court in **Rafiq Masih** case (supra). Therefore, recovery made from the applicant's pension has to be refunded as per law.

III) However, respondents claim that it was the mistake of the banker and that they have nothing to do with it. At this juncture, the respondents need not be reminded that the banker was chosen by the respondents to disburse pensions. There would be a contract/agreement between the respondents and the banker. Under the terms and conditions of the contract/ agreement the banker can be directed in regard to issues under question. Banker is not above law. **Rafiq Masih** judgment (supra) equally applies to the banker. Therefore, it is the responsibility of the respondents to take up with the banker on behalf of the pensioner. It is surprising that the respondents who come from uniformed forces are disowning the responsibility of the cause of their elder brother in the evening of his life when he needs them the most and more so in the context of the applicant serving the Nation for nearly 35 years as a Torpedo Fitter. Rarely, we come across uniformed forces letting down there brethren.

IV) However, reverting to the core issue, respondents can resolve the issue by taking up with the banker to refund the amount recovered

citing the Hon'ble Supreme Court Judgment in **Rafiq Masih** case (supra) and by invoking the relevant clauses in the agreement/ contract between the banker and respondents. If need be by taking up with the Banking Ombudsman as well. Banker is not above law and, hence, has to comply by refunding the amount recovered by fixing responsibility on those in their organization, who committed the mistake of paying the amount in excess. The Tribunal hopes and trusts that the respondents in right earnest will take up with the banker and get the matter resolved as per law in 3 months from the date of receipt of this order.

V) With the above directions the OA is disposed with no order as to costs, giving liberty to the applicant to approach this Tribunal if the grievance persists, in accordance with law.

**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

Dated, the 27th day of June, 2019

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