

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**CIRCUIT BENCH, RANCHI**  
**OA/051/00115/16**

Reserved on: 20.08.2019  
Date of Order: 22.08.2019

**C O R A M**  
**HON'BLE MR. JAYESH V. BHAIKAVIA, JUDICIAL MEMBER**  
**HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

Sylvester Tigga, son of Lucas Tigga, resident of 836/A38, Adarsh Colony, Tiril Road, Kokar, PO- Kokar, PS- Kokar, District- Ranchi.

.... Applicant.

By Advocate: - Mr. V.K. Dubey

-Versus-

1. The Director General, Directorate General of Supplies and Disposal (HQ), Room No. 201, Jeevan Tara Building, 5, Sansad Marg, PO & PS- Sansad Marg, New Delhi- 110001.
2. DDG(QA), Directorate General of Supplies and Disposal, Nizam Palace, 2<sup>nd</sup> M.S. Building, 234/4 Acharya J.C. Bose Road, PO & PS A.J.C. Bose Road, District- Kolkata-700020.
3. General Manager, Centralized Pension Processing Cell, State Bank of India, Zonal Office Building, J.C. Road, Patna- 800001.
4. The Pay and Accounts, CPAO, Ministry of Finance, GOI having its office at Trikot Complex, Bhikaji Cama Palace, R.K. Puram, New Delhi-66.
5. PAO (Supply) Kolkata Supply, having its office at 14, R.N. Mukherjee Road, Kolkata, PO & PS & Dist:- Kolkata-700001.
6. Manager, SBI, Centralized Pension Processing Centre, 4<sup>th</sup> Floor, Administrative Building, Judges Court Road, Patna, Bihar- 800001.

.... Respondents.

By Advocate(s): - Mr. Rajendra Krishna, Sr. SC  
None for respondent nos. 3 to 6

**O R D E R**

**Per Dinesh Sharma, A.M:-** In the instant OA, the applicant has alleged that after his retirement on 30.06.2005 he was sanctioned pension of Rs. 5254/-. Following the recommendation of the 6<sup>th</sup> Pay Commission the amount of pension was revised and fixed at Rs. 11,875/-. However, all of a

sudden, without any further notice, in the month of December, 2013, a revised pension contained in letter dated 07.12.2013 was served upon the applicant by which his pension was reduced to Rs. 7917/-. The applicant contacted the authorities of the State Bank of India where he was provided a detailed statement wherein it was shown that an excess basic pension to the tune of Rs. 5,22,000/- had been paid to the applicant and therefore the same is being recovered in 160 instalments of Rs. 4,500/-. Even his Savings Bank account was put on hold from the month of July, 2015 and the hold was removed only on 01.09.2015 after debiting an amount of Rs. 22,000/- as recovery of excess pension. The applicant has alleged that such recovery, without any show cause notice, to collect any amount allegedly overpaid due to a wrong fixation, without any fault or misrepresentation on the part of the applicant, is illegal. The applicant has also prayed for an interim relief of stoppage of this deduction from his pension.

2. A written statement was filed by the respondent no. 1 and 2 in which they have denied the allegations of the applicant. They alleged that they have no records available in their office regarding the revision of pay as per recommendations of the 6<sup>th</sup> CPC in respect of the applicant. They have also stated that after implementation of the 6<sup>th</sup> CPC, re-fixation was done by the Central Pension Accounting Office, New Delhi without giving any intimation to the Directorate and hence, Director (Quality Assurance), Kolkata is not involved in the subject.

3. Following this written statement, the applicant requested for impleading the Pay and Accounts Officer, CPAO, Ministry of Finance, PAO

(Supply), Kolkata and Manager, State Bank of India, Centralized Pension Processing Centre, Patna as additional respondents and also for adding other reliefs. Following this, the OA was amended to include the three additional respondents.

4. A written statement has been filed by the respondent no. 3 (General Manager, State Bank of India) stating that the applicant has no valid cause of action against respondent no. 3. The function of respondent no. 3 is only to pay the amount which he receives from the employer of the applicant and he is in nowhere related to the “increasement or reduction” of the amount of pension. They have also alleged that the applicant was provided with a detailed statement as admitted by the applicant himself.

5. During the pendency of the OA, the Tribunal by its order dated 19.05.2017 recorded an assurance by the learned Sr. Standing Counsel for the government respondents, that he would advise the concerned authority to make sure that applicant’s correct pension must be resumed regularly. Later on 12.09.2017, the Tribunal again expressed its expectation that the concerned respondent will be advised that they should not discontinue the pension of the applicant. Since it was informed to the Tribunal that despite such expression of clear intention by this Tribunal the respondents were still subjecting the applicant to recovery from pension, the Tribunal, vide its order dated 15.02.2018, clarified that further recovery should be stopped and the amount which have been recovered shall be subject to the final outcome of the OA.

6. A written statement has been finally filed by PAO, Dy. Controller of Accounts, Govt. of India, Department of Commerce and Supply Division, Kolkata on 20.08.2019 stating that in compliance of the orders passed by this Tribunal they have informed the SBI, Patna for stopping of the recovery from the pension of the applicant. The SBI, Patna has informed the CPAO office at New Delhi that the recovery has already been made and as soon as the SBI authority came to know about the order passed by the CAT the recovery has been stopped. Now, the full pension has been calculated upon its revision as per the 7<sup>th</sup> CPC. They have requested for dismissing the OA on these grounds.

7. We have gone through the pleadings and heard the learned counsels of both the parties. It appears that the pleadings do not actually reflect the correct status of facts and both the parties, specially the respondents, have mentioned only half truths in their pleadings. While the Government respondents have taken a technical stand about their not having directed any reduction in pension or ordering any recovery from the pension the Bank (Respondent No. 3) has reported the general position about their having implemented the Government orders as an agent of the Government. The truth remains that the Bank made an overpayment amounting to Rs. 5,22,000/- due to an error in re-fixing pension and calculating arrears on account of pay revision by the 6<sup>th</sup> CPC. They sought to recover it (and have actually finally recovered) in instalments. To show that it has been done as per the direction of the Government the bank has quoted the order of the CPAO dated 07.12.2013 (Annexure 2) where, in

small print in underlying Note (b), it mentions that “pension/provisional pension, DA relief etc., if paid, may be adjusted suitably”. There is clearly no direction in this letter to recover a huge sum of Rs. 5,22,000/-, which has apparently been recovered because of excess payment done by the Bank due to a mistake committed by them in calculating the 6<sup>th</sup> CPC benefits. The fact that the applicant also did not immediately react to such recovery is an indication that the applicant was also aware of the fact of the mistaken overpayment. In his OA the applicant has alleged that, “if any wrong fixation is made or any excess payment is made to the applicant the same was not due to any fraud or misrepresentation made by him”. He has also alleged that for any mistake committed by the respondents the applicant cannot be made to suffer. While it is true that no one can be made to suffer because of a mistake made by another person, it is also equally true that no one is entitled to any unjust enrichment because of an accounting error. It is undisputed that though the Bank started recovery since January, 2014, the applicant did not dispute it till the end of the year 2015. This clearly indicates his acquiescence with the act of correcting the mistake committed by the Bank.

8. It was argued by the learned counsel for the applicant that any recovery from a pensioner for an amount paid by mistake, is not possible following the dictum of the Hon’ble Apex Court in Rafiq Masih’s case. We do not think that the decision in Rafiq Masih case can be applied under the facts and circumstances of this case. Here the overpayment was due to an accounting or calculating error by the agent of the employer that was

unauthorized by the employer. Hypothetically, the Bank could have corrected the mistake by collecting the whole overpaid amount, in one go, from the bank account kept with them, if it was possible for them to do so. Yet, they allowed it to be recovered in instalments in order to help the applicant. In such a situation, seeking refund of this mistakenly overpaid amount and also interest on that, is clearly not warranted. Hence, we do not find merit in the claim of the applicant for refund of an amount that was recovered to correct a payment made by the Bank in excess of what was authorised by their Principal, the Government. The OA is, therefore, dismissed.

9. We are sad to note that both the applicant and the respondents have been guilty of not stating the whole truth and the respondents have, in effect, dragged the matter till the respondent Bank could actually make the recovery of excess payment a fait accompli. The applicant is also guilty since he was aware of the fact of overpayment and had, as evidenced by his not raising any objection to it for close to two years, consented to the recovery of overpayment in instalments. The filing of this OA is apparently an ill-advised afterthought to avoid repayment of an undeserved fortuitous gain. We, therefore, feel that it will serve the interest of justice if a token cost of Rs. 1000/- each is imposed on the applicant and the respondent no 4(CPAO). A slightly heavier cost of Rs. 10,000/- is imposed on respondent no 3 (SBI) since the whole issue arose because of an error on their part. This amount should be deposited, within one month

of this order, with CAT Bar Association, Ranchi, to be used for assisting indigent litigants. The OA is disposed of accordingly.

**[ Dinesh Sharma ]**  
**Administrative Member**  
**Srk.**

**[Jayesh V. Bhairavia]**  
**Judicial Member**