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**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 27<sup>TH</sup> DAY OF OCTOBER, 2022**

**BEFORE**

**THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

**WRIT PETITION NO. 20321 OF 2021 (GM-RES)**

**BETWEEN:**

1. SMT. VIMALA RAMANATH PAWAR,

...PETITIONER

(BY SRI. YOGESH NAIK, LEARNED COUNSEL FOR  
SRI.B.O.ANIL KUMAR., ADVOCATE)

**AND:**

1. SENIOR MANAGER,  
CENTRALISED PENSION PROCESSING CENTRE,  
GENERAL ADMINISTRATION WING,  
CANARA BANK, K.R. ROAD,  
DWARKANATH BHAWAN, BASAVANAGUDI,  
BENGALURU – 560 004.
2. CANARA BANK,  
KASTURINAGAR BRANCH,  
NO. 4C-121, PUSHPAGIRI, 4<sup>TH</sup> CROSS,  
KASTURINAGAR, BENGALURU – 560 043.

Digitally signed by  
PADMAVATHI B K  
Location: HIGH  
COURT OF  
KARNATAKA

...RESPONDENTS



(BY SRI.T.P.MUTHANNA, ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE R-2 TO RE-CREDIT THE UNAUTHORIZED DEBIT AMOUNT FROM THE ACCOUNT NUMBER 12042030001900, 12042200019508 AND 06682610001340 TOTALING TO AN AMOUNT OF RS.6,40,329/- (SIX LAKHS FORTY THOUSANDS THREE HUNDRED AND TWENTY NINE ONLY).

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

The petitioner, a widow, aged 73 years knocks the doors of this Court, alleging lack of sympathy or even empathy, on the part of the respondent/Canara Bank, a State under Article 12 of the Constitution of India ('the Bank' for short) in recovering Rs.6,40,329/- from out of the family pension account of the petitioner and seeks a direction by issuance of a writ in the nature of *mandamus*, directing re-credit of the said amount.

2. Heard Sri Yogesh Naik, learned counsel for Sri B.O.Anil Kumar, learned counsel appearing for the petitioner and



Sri T.P.Muthanna, learned counsel appearing for respondent/Bank.

3. *Shorn of unnecessary details, the facts in brief, are as follows:-*

The petitioner is an account holder in the respondent/Bank and is a recipient of family pension from its hands. The husband of the petitioner one R.V.Pawar was working as a Technical Assistant Executive Engineer at Chief Engineer, C & B (S) Office, Government of Karnataka and retired from service on 31.05.2002. The said Government servant was having a regular pension account at Vishveshwarnagar Branch, Hubli of the erstwhile Syndicate Bank, which is now merged with the Bank. Till the end of February, 2019 R.V.Pawar was recipient of pension of Rs.38,604/- from the Branch. On centralization of pension from March 2019, the Centralized Pension Processing Centre ('CPPC' for short) started making payment of pension to the pension holders. The account of the husband of the petitioner, which was at Hubli was later transferred to Kasturinagar



Branch, Bangalore. Thereafter, the husband of the petitioner was being paid through Kasturinagar Branch from the CPPC.

4. From March 2019, the husband of the petitioner appears to have been paid Rs.96,998/- per month in place of Rs.38,604/-, which resulted in excess payment of pension of Rs.13,40,261/- upto 6<sup>th</sup> February, 2021, the date on which the husband of the petitioner dies. Therefore, there was an excess payment into the account of the husband of the petitioner from March, 2019 to 06-02-2021. The husband of the petitioner dies on 06.02.2021. After the death of the husband of the petitioner, family pension as payable to the petitioner was not immediately processed. The petitioner represented for payment of family pension. What the petitioner would get back is a communication that excess pension has been paid to the husband of the petitioner and later an order of refund of Rs.13,40,261/- came to be passed against the petitioner. The petitioner again pleaded that she was not aware of the deposits made into the account of her husband and she being 73 years old cannot come to the Bank during the pandemic and sought to seek pension. What comes about is debit of Rs.6,40,000/-



from family pension account of the petitioner without even any communication on intermittent intervals. The petitioner complains to the Bank that the debits are unauthorized and then knocks the doors of this Court in the subject petition seeking re-credit of the alleged unauthorized debits.

5. The learned counsel appearing for the petitioner would submit that the petitioner was not aware of what the problem was but did admit that if there is any excess payment that has come to the account of the husband of the petitioner, she would clear it but not in one go. However, the Bank did not accede to her request and on intermittent intervals had debited Rs.6,40,000/- from family pension amount and it is not even paying any family pension to the petitioner.

6. On the other hand, the learned counsel appearing for the respondent/Bank, Sri T.P.Muthanna, would vehemently refute the submissions to contend that the petitioner is in receipt of unjust enrichment as the husband of the petitioner did very well know the amount that was being paid as pension and its threefold increase immediately. The increase was on



account of certain mistake in the CPPC, where excess amount of pension was deposited into the account of the husband of the petitioner. Therefore, the petitioner cannot contend that no amount should be debited from her account as excess pension was deposited to the account of the husband of the petitioner.

Whether the petitioner being aware of the deposit or not, cannot be a ground to deny refund of the entire excess amount as it is public money.

7. I have given my anxious consideration to the submissions made by the respective learned counsel and perused the material on record.

8. The afore-narrated facts are not in dispute. The husband of the petitioner who was an employee of Government of Karnataka retires on 31-05-2002 and his pension account was being handled by the Syndicate Bank and later on, its merger with the respondent/Bank. The husband of the petitioner was getting Rs.38,604/- as pension upto February, 2019 and on account of reckless or callous functioning of the Officers of the Bank in CPPC, the pension of the husband of the



petitioner goes up from 38,604/- to Rs.96,988/-. This continues from March 2019 to 06-02-2021 close to two years. The husband of the petitioner dies on 06.02.2021. Thereafter, the petitioner who becomes entitled to family pension, seeks such payment from the hands of the respondent/Bank. What the petitioner would get in return to her request is a communication dated 06-08-2021 enclosing intimation dated 14-07-2021, both of which read as follows:

"Ref:255/2021/0668/KSTN

Date: 6-08-2021

To  
Mrs. Vimala Ramanath Pawar,  
W/o late R.V.Pawar,  
B-202, Skyline Solstice,  
No.35, Bhuvanagiri Main Road,  
Banaswadi, Bangalore-560043.

Dear Madam,

Reg: Excess pension paid to late Ramanath V.Pawar.

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With regard to above we have received a copy of the letter from CPPC issued to you with a copy to us. As we did not receive any reply from you, on enquiry you informed CPPC that you have not received any letter so far they asked us to call you and obtain acknowledgment.

In spite of our repeated request you have not come to branch to collect the letter copy and in the mean time we have sent the same to your daughters e-mail id a copy. Now once again we are sending a hard copy.



*Now we request you to submit the reply regarding the payment of Excess Pension which you have to repay at the earliest.*

*Kindly make the arrangements for refund of excess payment immediately.*

*Thanking you."*

"Ref.No. KSP/HO/GAWING/CPCC/2021

**Date: 14-07-2021**

*To  
Vimala Ramanath Pawar,  
W/o late R.V.Pawar,  
No.35, Bhuvanagiri Main Road,  
Banaswadi, Bangalore.*

*Intimation of Excess pension payment-Recovery.*

*Dear sir/Madam,*

*Reg: Refund of excess pension received by your spouse Lt. Mr.R.V.Pawar to the extent of Rs.1340261/- under PPO No.223614/RPR.*

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***We note that you are one of our valued Pensioner with PPO No. 223614/RPR, drawing pension from our Kasturinagar Branch, through SB account No.12042200010508. It is observed that an amount of Rs.1340261/- (Thirteen lakhs forty thousand two hundred and sixty one only) was paid in excess of the eligibility to your spouse Lt.Mr. R.V.Pawar from March 2019 to 6<sup>th</sup> of February 2021 (Till date of death).***

***We request you to make arrangements for refund of excess payment immediately."***

*(emphasis added)*



The petitioner replies to the said communications on 07-09-2021. The reply reads as follows:

"To  
Senior Manager  
Centralized Pension Process Unit,  
General Administration Wing  
Head Office-Annex, K.R.Road,  
Dwarakanath Bhavan, Basavanagudi,  
Bangalore-560 004.

7-09-2021  
Bangalore

Ref: No. KSP/HO/GAWING/CPC/2021.

Subject: Refund of Excess Pension paid to my late husband Mr. R.V.Pawar.

With reference to the above subject, I undersigned Mrs. Vimala Ramnath Pawar acknowledge the receipt of your recovery letter dated 14-07-2021.

I received the letter on 6-08-2021 and have replied on 9.08.2021 asking for time to reply after getting some advice and ascertaining facts.

**Cn 8-07-2021 without any intimation or information my family pension account, my husband's account and another joint account was abruptly put on hold. On each account a sum of Rs.5,00,000/- (5 lakh rupees) was put on hold and even now currently my account is put on hold**

**As a matter of fact, on 3-05-2021 I had written a letter to Branch Manager Kasturi Nagar and has requested them to check and intimate me why the family pension fixed was so meager when compared to my husband's pension. I occasionally followed it up and waited for a reply but was in utter shock when abruptly all the accounts were**



***put on hold immediately without any information. Instead of getting a reply on status from bank, my account was put on hold.***

*I am under great mental distress, and pressure that due to some banking error excess pension was paid to my late husband and now the same will be recovered from me through my family pension which in itself is not sufficient to maintain myself. The pension being disbursed every month currently is Rs.13055/- which I have not even withdrawn a single time. My husband passed away 7 months ago on 6-02-2021.*

*The joint account I have with my daughter and my late husband was also put on hold and an amount of Rs.200000/- has been debited from bank without our consent. The ledger balance shows Rs.2,19,420/- but the available balance is only Rs.19,420/-.*

*With great grief I would like to submit that I am not able to clear the balance at once. Also, a large amount has been deducted as TDS which my husband has not claimed.*

*My late husband was a dementia patient who was on complete assistance and needed full support for his daily activities. And moreover, he had written several times for enhanced pension and other benefits to various government departments.*

*I need more time to collate his papers, make enquiries with government departments and I am also trying to arrange some funds through relatives if possible, to make some part payment. However, I request you to un hold my account and give me access to operate it so that I am take care of my basic daily/monthly needs.*

***How can bank suddenly put my account on hold and immediately demand a recovery. As per your letter the excess amount was paid over a period of two***



***years to my husband. Is it fair to stop my family pension and deprive me completely by putting my account on hold.***

***Please let me know how I should sustain myself, pay my grocery bills, medical bills and day to-day expenses. Currently I am dependent on my relatives who have lent me a few thousand rupees. I am in such pitiful state. In case of my medical emergency, I will be stranded and helplessly left with no treatment.***

***I did not anticipate that bank can be so inhumane to me. I am 73 year old women who is already going through hardships mentally, physically and emotionally after my husband's death. How can this act of Bank be justified.***

*Kindly release my account and give me access to my family pension for my survival."*

*(emphasis added)*

The petitioner narrates that without any intimation, from her family pension account a sum of Rs.5,00,000/- is put on hold and she pleads that she is in great mental distress and excess amount is not deposited due to the fault of the husband of the petitioner to his account but if recovery is made from her account in that regard she would face lot of problems to maintain herself. The family pension was only Rs.13,055/- and she was not permitted to draw that even once and later also, without any communication, the Bank has unauthorisedly



debited Rs.2,00,000/-. In this manner, the Bank has harassed the petitioner for 7 months after the death of her husband for certain act that she is not even aware of.

8. For the folly of the officers of the Bank in depositing excess amount, the 73 years old widow is being made to move from pillar to post for getting a meager sum of Rs.13,055/- as family pension and the Bank is also unauthorisedly seeking to debit Rs.6,40,000/- from the money that is lying in the account. The petitioner pleads that it has become difficult to sustain herself and her grocery bills and medical bills have all been left unpaid and she is in a pitiful state. This state of affairs does not even move the Bank and unauthorized debit continues.

9. The learned counsel for the respondent/Bank would contend that the Master Circular for disbursement of Government Pension by agency banks permits such recovery in terms of Clause 13, which reads as follows:

***"Recovery of Excess/wrong payment made to a pensioner***



13. *Details of the uniform procedure evolved for recovery of excess/wrong payments made to pensioners drawing pension under the Scheme for payment of pension to Central/Civil/Defence/Railways pensioners through agency banks, are given below:*

- (a) *As soon as the excess/wrong payment made to a pensioner comes to the notice of the paying branch, the branch should adjust the same against the amount standing to the credit of the pensioner's account to the extent possible including lumpsum arrears payment.*
- (b) *If the entire amount of overpayment cannot be adjusted from the account, the pensioner may be asked to pay forthwith the balance amount of overpayment.*
- (c) *In case the pensioner expresses his inability to pay the amount, the same may be adjusted from the future pension payments to be made to the pensioners. For recovering the overpayment made to pensioner from his future pension payment in installments 1/3<sup>rd</sup> of net (pension + relief) payable each month may be recovered unless the pensioner concerned gives consent in writing to pay a higher installment amount.*
- (d) ***If the overpayment cannot be recovered from the pensioner due to his death or discontinuance of pension then action has to be taken as per the letter of undertaking given by the pensioner under the scheme.***
- (e) *The pensioner may also be advised about the details of over payment/wrong payment and mode of its recovery."*

*(emphasis supplied)*



He would place reliance upon sub-clause (d) of Clause 13, that if overpayment cannot be recovered from the pensioner due to his death or discontinuance of pension, then action has to be taken as per the letter of undertaking given by the pensioner under the Scheme. Though recovery of excess amount is permitted in terms of the Master Circular, which depicts uniform recovery of wrong payments made to pensioners drawing pension, that would not mean that the amount that is paid in excess is to be recovered in one stroke that too, from the petitioner who is a widow depending on family pension and is suffering from ailments at the age of 73 years. The Officers of the Bank who have indulged in such callous or reckless transfer of excess pension to the account of the husband of the petitioner should be made/held accountable for such act. It is for the Bank to take such appropriate action against those erring officers / officials and fix accountability, in accordance with law.

10. Pension, is trite, not a bounty or a gratis that is granted to the pensioner or the spouse of the pensioner as a family pension, for the Bank to deal with it at its whim and



fancy. It is to be noticed that the husband of the petitioner is not an employee of the Bank. He has only his account in the Bank. Pension is deposited rightly in the CPPC. The State Government has not paid any excess pension to the husband of the petitioner. It is the irresponsibility of the Officers of the Bank, which has led to such over payment. Therefore, to generate a balance in the facts and circumstances becomes necessary. The amount that is deposited into the account of the husband of the petitioner is neither the money belonging to the callous officers nor the money that belonged to the husband of the petitioner. It is "*public money*". Therefore, I deem it appropriate to permit recovery of the amount in equal monthly installments of Rs.4,000/- (Rupees four thousand only) from the hands of the petitioner.

11. For the aforesaid reasons, I pass the following:

**ORDER**

- (i) Writ Petition is allowed.
- (ii) A *mandamus* shall issue to the respondent/Bank to re-credit the amount that is recovered i.e.,



Rs.6,40,000/- or whatever, from the account of the petitioner, within two weeks from the date of receipt of a copy of this order and also pay appropriate pension without any deductions on this issue.

(iii) The Bank is at liberty to recover Rs.4,000/- every month from the family pension of the petitioner till the alleged excess amount deposited in the account of the husband of the petitioner gets cleared.

**Sd/-  
JUDGE**

PN  
List No.: 1 Sl No.: 7