

Extracts of judgement:-
HIGH COURT OF BOMBAY (NAGPUR BENCH)
LD-VC-CW-665 OF 2020

Date of Reserving the Judgment: 13th August, 2020
Date of Pronouncing the Judgment: 20th August, 2020

Extracts

14. The Bank is a trustee of the account of the pensioners, like the petitioner, and has no authority in the eyes of law to dispute the entitlement of the pension payable to the employees, other than those in the employment of the Bank. To tamper with such account and effect the recovery of pension without any authority, is nothing but a breach of trust of the petitioner by the Bank. We should not be understood to have said that even where there is technical error in calculation, other than of entitlement, is committed resulting in excess payment, the Bank cannot recover it. We have already held that no such case is made out here.

16. Before parting with this Judgment, we need to remind the Bank that the pension payable to the employees upon superannuation is a 'property' under Article 300-A of the Constitution of India and it constitutes a fundamental right to livelihood under Article 21 of the Constitution of India. The deprivation, even a part of this amount, cannot be accepted, except in accordance with and authority of law. Article 41 of the Constitution of India in the Part IV of Directive Principles of State Policy has created an obligation upon the State to recognize a right of public assistance in the case of old age, sickness and disablement. Article 46 therein requires the State to promote with special care the economic interests of the weaker sections of the people. In short, the aforesaid provisions of the directive principles of State policy create an obligation upon the State to enact suitable laws, making the provisions to recognize a right of public assistance, to promote economic interests, to protect the life and property of senior citizens, to treat them with respect and dignity and to give wide publicity to it.

17. Unfortunately, the time has come to tell the Bank that the aging is natural process, which leads to weakening of the body and mind. The productivity, working ability and mobility decreases or paralyzes with growing age. The traditional norms, values and culture in the Indian Society demand to treat the senior citizens with respect, dignity and lay stress on providing security, care and assistance to them. It becomes a part of the human right of the senior citizens. The senior citizens are the persons who had shouldered the responsibility of building a nation in general and society or community in particular, while in service. Utilizing their experience in the life and working, the strong shoulders are created of young persons to substitute and rest the responsibility upon them, while demitting the office. The bank officials must realize that tomorrow it may be their turn, upon superannuation, to fight for the pension or post-retiral benefits. The thought process, therefore, to be adopted should be of a person in a situation like the petitioner. The respect, dignity, care, sensitivity, assistance and security would automatically follow.

18. We have, however, seen and can take judicial note of the fact that the security of the senior citizens always remain in peril. We have seen the senior citizens anxiously waiting for credit of the pension amount in their account and standing in a queue for withdrawal. Once the amount is withdrawn personally either from the Bank or from the ATM, a serious threat starts posing to the life from the watchdogs roaming around involved in pick-pocketing and stealing. We have actually seen the old aged persons – men and women, counting the currency with cramping hands and trying to secure the amount at some hidden place in the body. It is then after waiting in the premises of the Bank and taking stock of the situation and the atmosphere with scared mind and the feeling of insecurity, the escape route and time is chosen to reach to their destination safely. It is a high time for the Banks to create a separate cell and to devise a method to provide personal service through the men of confidence, at the door-step to the old aged, disabled and sick persons who are the senior citizens. They have to be treated with respect and dignity. The sensitivity to the problems of the senior citizens need to be addressed. The mechanism for immediate redressal of grievance needs to be provided. The officers having a degree or master's degree in Social Work or Psychology, who can be in personal touch with and genuinely understand and redress the grievances or complaints of the senior citizens, can be appointed.

19. In the result, this petition is allowed and the following order is passed :

(1) The action of the respondent No.3- Bank in deducting an amount of Rs.11,040/- per month with effect from October, 2019 is hereby quashed and set aside.

(2) We direct the respondent No.3- Bank to immediately credit an amount of Rs.3,27,045/- , recovered from the pension account of the petitioner, along with interest at the rate of 18% per annum from the date of recovery of each of the installments, till the date of credit of this amount in the pension account of the petitioner.

(3) The respondent No.3- Bank is restrained from recovering any amount from the pension payable to the petitioner on the basis of the action, which we have quashed and set aside.

(4) We direct the respondent No.3- Bank to pay the compensation of Rs.50,000/- to the petitioner and credit the said amount in the pension account of the petitioner within a period of eight days from today, failing which the additional costs of Rs.1,000/- for each day's delay will have to be paid.

(5) We direct the Registry of this Court to forward the copies of this Judgment to the Centralized Processing Pension Centres of all the Nationalized Banks and also to the Reserve Bank of India and the Chief Secretary, Government of Maharashtra, to consider the question of constitution of separate cell and release of appropriate guidelines so as to attain the constitutional goal of providing respect, dignity, care, sensitivity, assistance and security to all the pension account holders in the Banks.