2026:DHC:4799

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 28th March, 2026.
Pronounced on: 26th May, 2026.
Uploaded on: 27th May, 2026.

\+ W.P.(C) 4502/2021 & CM APPL. 13760/2021

MS INDRA .....Petitioner

Through: Ch. Rabindra Singh, Mr. Paras Aggarwal and Ms. Ekta Singh, Advocates.

versus

THE GOVT OF NCT OF DELHI & ANR. .....Respondents

Through: Mrs. Avnish Ahlawat, SC for GNCTD with Mr. Mohnish Sehrawat, Ms. Aliza Alam, Advocates for R-1.
Mr. Rajiv Kapur, SC for SBI, Mr. Akshit Kapur, AOR, Ms. Riya Sood, Advocate for SBI.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J.:

1. This writ petition is filed by a widow who is in receipt of family pension. Her grievance arises out of deductions effected from that pension towards recovery of what the Respondents term as excess payment. Her case is that the alleged excess did not arise from any misrepresentation, concealment or other act on her part, but from the Respondents' own processing of the pension. She further states that the recovery was initiated unilaterally, without prior notice or disclosure of the basis on which it was sought to be made, and that the deductions have operated with particular

severity because they are being made from family pension.

Factual background

2. The Petitioner's husband, late Sh. Shiv Narayan, entered government service on 15th October, 1980 as an LDC. He died in harness on 6th June, 2003 while serving as a UDC in the Election Department under the SDM, South-West Delhi, at the DC Office, Kapashera, New Delhi.

3. Following his death, family pension was sanctioned in favour of the Petitioner through PPO No. 69674-03-0121-1 issued by PAO No. 1, Government of NCT of Delhi, to be disbursed through the State Bank of India, Kapashera Branch. The PPO record shows that the Petitioner was entitled to family pension at the enhanced rate of Rs. 2,650 from 7th June, 2003 to 6th June, 2010, and thereafter at the normal rate of Rs. 1,590 from 7th June, 2010 till death or remarriage, whichever occurred earlier.

4. The matter took a turn when the Petitioner noticed a substantial reduction in the pension credited to her account. Upon enquiry, she was furnished a copy of letter No. CPPC/MISC/2017/1530 dated 4th May, 2017 issued by SBI's Centralised Pension Processing Centre to the Kapashera Branch. That communication stated that excess pension had been paid on account of a "wrong ENHANCE DATE" and quantified the excess at Rs. 2,51,616. It also recorded that recovery had been fed in the pension software at the rate of Rs. 3,200 per month and asked the branch to recover the amount from the pensioner and inform her accordingly.

5. The May 2017 slip also reflects the "Enhanced End Date of Family" as 6th June, 2013, which does not match the PPO, under which the enhanced-rate period ended on 6th June, 2010. This inconsistency in the bank-generated record is a circumstance to which the Court will revert in the later

part of this judgment.

6. SBI's case is that a revised PPO dated 4th October, 2019 was subsequently received from the Central Pension Accounting Office, following which the Petitioner's pension was recalculated, the alleged excess payment was recomputed at Rs. 3,60,279/-. SBI states that the monthly recovery was revised to Rs. 4,399/-, and its records reflect recovery through 82 instalments, proposed to continue up to 29th February, 2024. The later pension slips and the deduction-history printout do show deductions of Rs. 4,399/- in November 2019 and January 2021, and also reflect the revised recovery entry on which SBI places reliance.

7. The Petitioner thereafter caused a legal notice dated 3rd February, 2021 to be issued to PAO No. 1 and SBI. PAO No. 1 replied on 11th February, 2021, stating that it had no role in the disbursal of pension or in the impugned recovery and that the matter fell within the domain of the pension-disbursing bank. No substantive reply from SBI to that notice has been placed on record by the Petitioner.

8. The Petitioner's case, in essence, is that any excess payment, if made, arose entirely from the Respondents' own error in processing the pension and not from any act, omission, misrepresentation or concealment on her part. She furnished no false information and played no role in the alleged overpayment. Her further case is that the recovery from family pension was commenced unilaterally, without prior notice, and has operated with serious hardship upon a widow surviving on limited means.

9. The Petitioner further states that, as a senior citizen dependent on family pension, the deductions have placed her under serious financial strain, compelled her to raise loans, and left her struggling to maintain

herself with dignity.

10. As regards the alleged undertaking relied upon by SBI, the Petitioner's case is that her signatures were obtained on routine papers when the family pension formalities were being completed; that she did not consciously furnish any undertaking authorising recovery of future excess; and that, in any event, such a document cannot displace the equitable principles which restrain recovery from retirees or pensioners where the excess payment has arisen without fault on their part.

11. SBI, in response, does not dispute that excess payment was made. Its case is that the error surfaced during internal audit and was later reflected in a further recalculation of pension. According to SBI, the Petitioner continued to receive family pension beyond what the system ought to have permitted, first because of the wrong enhancement date and later on account of revised pension processing following the 7th CPC exercise. On that basis, SBI submits that it was bound to recover the excess and restore the amount to the Government Treasury.

12. It is further submitted that the recovery was not effected in one lump sum but through instalments. Initially, a monthly deduction of Rs. 3,200 was made from May 2017. Later, upon recalculation, the monthly deduction was revised to Rs. 4,399. It also relies on the pension slips and the software-generated recovery history to show that the recovery mechanism was system-driven and stood reflected in the pension account.

13. The bank's principal legal plank, however, is the undertaking dated 5th January, 2004, bearing the Petitioner's signature as "Indra", by which the signatory agrees to refund, or permit adjustment of, any amount not due. SBI states that this undertaking is sufficient in law to sustain the recovery and

takes the case outside the line of authority which restrains recovery on equitable considerations.

14. SBI also relies on the RBI circular dated 17th March, 2016 and the Master Circular dated 1st July, 2017 governing disbursement of Government pension through agency banks. The substance of those circulars is that excess or wrong payment made to a pensioner may first be adjusted against the credit available in the account and, if that is insufficient, may be recovered from future pension in instalments, ordinarily up to one-third of the net pension plus relief, unless the pensioner gives written consent for a higher instalment. The circulars also contemplate that the pensioner be informed of the details of the overpayment and the mode of recovery.

15. On the strength of these materials, SBI submits that the Petitioner cannot invoke equity to resist repayment of money which was not lawfully due to her. It contends that the payments were made from Government funds, the excess came to light upon audit and recalculation, the recovery was structured through instalments, and the undertaking independently authorises such recovery. It is on that footing that SBI places reliance on ***Chandi Prasad Uniyal & Ors. v. State of Uttranchal***,[1] ***High Court of Punjab and Haryana & Ors. v. Jagdev Singh***[2] and ***Union of India & Ors. v. Sujatha Vedachalam (Smt) and Anr.***[3]

16. Respondent No. 1, Government of NCT of Delhi, takes a narrower position. Its case is that, while it issued the PPO, it had no role in the actual disbursal of family pension or in the impugned recovery. It further relies on the Office Memorandum dated 16th May, 2018, issued by the Central

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[1] (2012) 8 SCC 417
[2] (2016) 14 SCC 267

Pension Accounting Office, which provides the uniform procedure for agency banks to handle excess pension payments and prohibits them from withholding pensions during recovery proceedings. It also points out that the school concerned stated, by letter dated 3rd March, 2022, that no deduction or recovery had been made by the school as per its record. On that basis, Respondent No. 1 seeks dismissal of the writ petition *qua* itself.

17. The Petitioner does not dispute that the enhanced-rate family pension was available only up to a fixed terminal date under the PPO. Nor does SBI dispute that the PPO fixed that date as 6th June, 2010. The real controversy, therefore, concerns the legal consequences that follow once excess payment, said to have arisen from an error in pension processing, is later detected in a case of this kind.

18. Another feature of the record also deserves notice. The contemporaneous recovery letter dated 4th May, 2017 attributes the excess payment specifically to a "wrong ENHANCE DATE". The later affidavit filed by the bank furnishes a fuller explanatory account linked to internal audit, revised pension processing, and subsequent recalculation. Whether that later account merely elaborates the same underlying error or introduces a materially different basis for recovery is a question that requires careful examination.

19. The Court is not presently concerned with any dispute as to whether the Petitioner's entitlement under the PPO was confined to an enhanced-rate period of limited duration. That position is not in dispute. The questions that arise for consideration concern whether there was any fault on the Petitioner's part, the requirement of prior notice, the effect of the alleged

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[3] (2000) 9 SCC 187

undertaking, the extent of the Bank's authority to recover amounts from a family pensioner, and the relief that should follow in the facts of the case.

Points for determination

20. In that background, the following issues arise for determination:

(i) Whether the excess payment made to the Petitioner arose from any misrepresentation, concealment or other positive act on her part, or whether it arose entirely from error at the level of pension processing, system entries, revision or recalculation by the Respondents.

(ii) What is the effect of the undertaking dated 5th January, 2004 relied upon by SBI and, more particularly, whether that document, on its terms and in the circumstances in which it was obtained, is sufficient in law to sustain recovery from the Petitioner's family pension notwithstanding the equitable limitations recognised in the case law.

(iii) Whether the recovery initiated in May 2017 and revised in November 2019 was preceded by adequate notice to the Petitioner and disclosure of the basis, details and mode of recovery, and, if not, what consequence follows.

(iv) Whether, having regard to the nature of the pension involved, the long period over which the alleged excess was paid, the status of the Petitioner as a family pensioner, and the factual setting disclosed by the record, the recovery is liable to be interdicted on principles of fairness, equity and settled service jurisprudence.

(v) Whether Respondent No. 1 has any surviving substantive role or liability in the matter beyond the issuance of the PPO.

(vi) Depending on the answers to the above, whether the Petitioner is entitled merely to stoppage of further recovery, or also to refund of the amounts already deducted, and if so, on what terms.

Discussion and reasons

21. At the outset, it is necessary to separate three distinct aspects of the matter. The first is the Petitioner's entitlement under the PPO. The second is the fact of overpayment. The third is the Respondents' authority in law to recover such overpayment in the circumstances of this case. The first aspect is not in dispute. Under the PPO, the Petitioner was entitled to enhanced family pension at the rate of Rs. 2,650 from 7th June, 2003 to 6th June, 2010, and thereafter to normal family pension at the rate of Rs. 1,590 from 7th June, 2010 onwards.

22. The Petitioner does not and cannot contend that the PPO entitled her to indefinitely receive family pension at the enhanced rate. The real controversy lies in the cause of that overpayment, the manner in which the Respondents proceeded once it was detected, and whether the recovery now impugned can be sustained in law on the facts presented.

23. As regards the cause of the overpayment, the contemporaneous record points in a single direction. The bank's letter dated 4th May, 2017, which triggered the recovery process, does not attribute the excess to any fraud, concealment or false declaration on the Petitioner's part. It attributes the excess to one cause alone: "wrong ENHANCE DATE". The same communication quantifies the excess at Rs. 2,51,616 and records that recovery has been fed into the pension software at the rate of Rs. 3,200 per month.

24. The pension slips placed on record by the Petitioner are consistent with that position. The pension slip for May 2017 reflects the "Enhanced End Date of Family" as 6th June, 2013, even though the PPO confined the enhanced-rate period to 6th June, 2010. This inconsistency bears directly on

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the genesis of the overpayment. It is traceable, not to any act or omission of the Petitioner, but to the manner in which the pension was processed and recorded in the bank's system.

25. SBI's subsequent explanation in its affidavit, referring to internal audit, 7th CPC revision and recalculation, may explain how the initial figure of Rs. 2,51,616 was later revised to Rs. 3,60,279. It does not, however, alter the basic character of the error. Whether quantified at the earlier or later figure, the excess arose because of the way in which pension was computed and revised at the bank's end. The later pension records relied upon by SBI, which show recalculation and a revised recovery entry, likewise point only to correction of an institutional mistake, and do not implicate the Petitioner in any wrongdoing.

26. There is nothing on record to suggest that the Petitioner knew, or ought reasonably to have known, that she was receiving amounts beyond her lawful entitlement. The Petitioner, a family pensioner, received the amounts credited in her account in the ordinary course. She had no role in configuring the software or dates, and had no independent means of checking the internal calculations. Significantly, the pension slips themselves reflected the "Enhanced End Date of Family" as 6th June, 2013. In such a situation, it would not be reasonable to attribute to her any knowledge of an underlying processing error or to expect her to detect and question the same.

27. That does not, by itself, conclude the matter. SBI is right in contending, as a general proposition, that public money paid by mistake is ordinarily recoverable and that an employer is not forever precluded from reclaiming what was not due. The law does not treat every erroneous

disbursement of public funds as irrecoverable merely because the mistake originated with the authority. At the same time, the existence of a power to recover is distinct from the permissible exercise of that power where there is no fault on the part of the recipient, where a long period has elapsed, where no prior notice is given, and where recovery is sought from a person in a position of financial vulnerability.

28. In ***Syed Abdul Qadir & Ors. v. State of Bihar & Ors.***,[4] the Supreme Court dealt with excess payment caused by the employer's erroneous understanding of the applicable rules. The beneficiaries had neither misrepresented nor acted fraudulently. Holding that the mistake lay with the authorities, the Court declined to permit recovery, particularly in the case of persons who had retired or were on the verge of retirement. The decision proceeds on the principle that where excess payment arises without fault on the part of the recipient, and where recovery would result in undue hardship, equitable considerations may preclude recovery.

29. The position was later crystallised in ***State of Punjab v. Rafiq Masih***.[5] After reviewing the earlier authorities, the Supreme Court identified categories of cases in which recovery would be impermissible in law. Among them are recovery from retired employees; recovery where the excess payment has been made for a period in excess of five years before the order of recovery; and cases in which the recovery would be so harsh or arbitrary that it outweighs the employer's right to recoup the excess. Those categories are grounded in fairness and hardship and are not to be applied mechanically, but they do lay down clear outer limits.

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[4] (2009) 3 SCC 475

[5] (2015) 4 SCC 334

30. Seen through that lens, the present case falls squarely within the protective zone identified in *Rafiq Masih*. The Petitioner is not a serving employee. She is a family pensioner. On SBI's own showing, the overpayment continued for several years before any recovery was initiated in 2017. When recovery was eventually commenced, it was not from a running salary, but from the limited family pension payable to a widow. Although *Rafiq Masih* speaks of "retired employees", the rationale applies with equal, if not greater, force to a family pensioner such as the Petitioner.

31. The Supreme Court in ***Thomas Daniel v. State of Kerala & Ors.***[6] carried the same approach expressly into the pensionary context. The Court reiterated that where excess payment has not been induced by fraud or misrepresentation on the part of the recipient, but is the result of the employer's own mistake, recovery does not follow as a matter of course. In doing so, the Court relied upon the earlier decision in ***B.J. Akkara v. Government of India***,[7] which recognised that pensioners stand on a more vulnerable footing than serving employees, that their financial arrangements are often structured around long-standing receipts, and that recovery of excess pension after prolonged payment may inflict disproportionate hardship.

32. The Petitioner's case is, in fact, on an even stronger footing. She is not merely a retired employee; she is a widow drawing family pension. The material on record shows that after deduction of Rs. 4,399 per month, the amount left to her was Rs. 8,799. The rejoinder and written submissions describe the hardship caused by such deductions to a senior citizen

[6] 2022 SCC OnLine SC 536

[7] (2006) 11 SCC 709

dependent primarily on family pension. The Court's conclusion does not rest on sympathy. But when equitable jurisdiction is invoked in the setting of pensionary recovery, the personal situation of the recipient is a relevant and legitimate consideration.

33. SBI's first answer to this line of authority cited above is founded on the RBI/CPAO framework. Those circulars do contemplate that excess or wrong payments may be recovered and permit recovery by instalments, ordinarily up to one-third of the net pension plus relief, unless the pensioner voluntarily agrees to a higher instalment. To that extent, SBI is correct in saying that recovery from pension is not alien to the administrative scheme, and the instalments adopted here broadly conform to the one-third ceiling.

34. That, however, is only part of the picture. The circulars in question are administrative instructions which regulate the procedure for dealing with overpayments. They cannot be read as conferring an unfettered right to recover in every case, or as overriding binding precedent under Article 141 of the Constitution. Nor do they dilute the equitable limitations recognised in *Syed Abdul Qadir*, *Rafiq Masih* and *Thomas Daniel*. Significantly, the RBI/CPAO framework itself proceeds on the premise that the pensioner will be informed of the details of the overpayment and the proposed mode of recovery, thereby acknowledging that even where recovery is otherwise permissible, it must be effected fairly.

35. On that aspect, the record is unsatisfactory from SBI's side. The bank's letter dated 4th May, 2017 is not a notice issued to the Petitioner. It is an internal communication from the CPPC to the branch. In substance, it records that the recovery has been fed into the pension software and directs the branch to effect recovery and inform the pensioner accordingly. This

indicates that the letter was not the act of informing the Petitioner. The Court does not find any material to show that, prior to commencement of deductions, the Petitioner was furnished with the details of the alleged overpayment, the basis of its computation, or the proposed mode of recovery.

36. This omission has both procedural and substantive implications. Procedurally, recovery from pension without prior communication of the basis and particulars of the proposed recovery offends elementary fairness. Substantively, the absence of timely notice weakens any attempt to attribute knowledge of overpayment to the Petitioner, and reinforces the application of the protective principles set out in *Rafiq Masih* and *Thomas Daniel*. Courts have repeatedly underscored that adverse financial re-fixation, particularly in pension matters, should ordinarily be preceded by notice so that the affected person has an opportunity to contest the claim or demonstrate hardship.

37. SBI further relies upon the undertaking dated 5th January, 2004. The document placed on record is a signed form by which the signatory agrees to refund, or permit adjustment of, any amount not actually due. The question, however, is whether such an undertaking, having regard to its terms and the circumstances of the case, is sufficient in law to sustain the impugned recovery.

38. For this purpose, SBI seeks to derive support from *Jagdev Singh*. In that case, the Supreme Court held that the usual protection against recovery from a retired employee would not apply where the employee had, while opting for a revised pay scale, specifically furnished an undertaking to refund any excess if found payable on re-fixation. The reasoning in *Jagdev*

Singh rests on a conscious, specific undertaking linked to a defined benefit and furnished in circumstances where the employee knew that future re-fixation might result in downwards adjustment.

39. The present case stands on a materially different footing. Firstly, the undertaking relied upon here is a standard-form bank document obtained at the time of commencement of family pension in January 2004. It was not furnished while opting into a revised pay structure, nor was it tied to any particular re-fixation exercise or choice between competing benefits. It formed part of routine documentation for starting pension disbursal.

40. Secondly, the Petitioner is not a serving employee making an election about pay scales or benefits. She is the widow of the deceased employee and a recipient of family pension. Thirdly, even if the undertaking is taken at face value, it cannot be read in isolation from the rest of the record. The bank's own documents show that the error lay in its handling of the enhancement period and that overpayment continued for years. There is nothing to suggest that the Petitioner was informed, contemporaneously with the discovery of error, that a mistake had occurred, or that large sums were now sought to be recovered from her family pension.

41. Fourthly, in *Jagdev Singh,* the respondent was a senior judicial officer; here, the Petitioner's late husband was a Class III (Group C) employee, a category expressly noticed in *Rafiq Masih* as warranting enhanced protection against recovery. Lastly, while the error in *Jagdev Singh* was detected within a comparatively short time, the alleged overpayment here persisted for about seven years before recovery commenced.

42. SBI's reliance on *Chandi Prasad* also must be seen in its proper

perspective. That decision affirms the general principle that excess public money, if paid out by mistake, is in the ordinary course recoverable. The present case, however, arises in a more specific setting: a long-standing overpayment of family pension, arising without fault on the Petitioner's part, continuing for several years before recovery was commenced, and affecting the widow of a deceased Class III (Group C) employee.

43. The position that emerges may be summarised thus. The overpayment in the present case arose from an error in pension processing at the bank's end. There is no material to suggest fraud, misrepresentation or concealment by the Petitioner. The overpayment continued for years before recovery was initiated and recovery was then made from family pension payable to a widow. Prior notice, giving particulars of the overpayment and the proposed mode of recovery, is not shown. The generic undertaking relied upon by SBI, obtained at the commencement of family pension, does not, in these facts, suffice to displace the equitable restraint recognised by the Supreme Court. The case is therefore governed by the principles laid down in *Syed Abdul Qadir*, *Rafiq Masih* and *Thomas Daniel*, and falls outside the narrower factual situation considered in *Jagdev Singh*.

44. Respondent No. 1 stands on a different footing. The record indicates that PAO No. 1 issued the PPO, but did not itself effect or direct the impugned recovery. The letter dated 11th February 2021 from PAO No. 1 and the communication dated 3rd March 2022 from the school both support that position. No operative recovery-related direction is therefore called for against Respondent No. 1, save that any future correction in the PPO or related pension records, if occasion arises, shall be carried out strictly in accordance with law and after due notice to the Petitioner.

Relief

45. In view of the foregoing discussion, the impugned recovery is found to be legally unsustainable. The Petitioner is consequently entitled both to cessation of further recovery and to refund of the amounts already deducted from her family pension.

46. The writ petition is accordingly allowed in the following terms:

46.1 The recovery effected by Respondent No. 2 from the Petitioner's family pension, including the recovery initiated in May 2017 and the subsequent revised recovery, is hereby set aside.

46.2 Respondent No. 2 shall refund to the Petitioner the amounts already recovered from her family pension pursuant to the impugned recovery.

46.3 The refund shall be made within eight weeks from today together with simple interest at 6% per annum, computed from the date of each deduction until the date of actual payment.

46.4 No further recovery shall be effected from the Petitioner's family pension on the basis of the impugned overpayment entries.

47. Disposed of along with pending applications.

SANJEEV NARULA, J

MAY 26, 2026/ab