

Nalini Devi Vs. The General Manager

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Court : Karnataka

Decided On : Nov-17-2022

Judge : M.Nagaprasanna

Appeal No. : WP 22058/2021

Appellant : Nalini Devi

Respondent : The General Manager

Judgement :

1 IN THE HIGH COURT OF KARNATAKA AT BENGALURU R DATED THIS THE17H DAY OF NOVEMBER, 2022 BEFORE THE HON'BLE MR. JUSTICE M. NAGAPRASANNA WRIT PETITION No.22058 OF2021(GM - RES) BETWEEN: NALINI DEVI W/O. SUDHAKARA C, AGED ABOUT62YEARS R/AT NO.472, 8TH MAIN, 3RD CROSS, VIJAYANAGAR (NEAR HOSALLI TIFFIN ROOM), BENGALURU - 560 040. ... PETITIONER (BY SRI HANUMANTHAPPA HARAVI GOWDAR B., ADVOCATE) AND:

1. THE GENERAL MANAGER CANARA BANK HEAD OFFICE, JEEVAN PRAKASH BUILDING, NO.113-1, J.C.ROAD, BENGALURU - 560 002.
2. THE DEPUTY GENERAL MANAGER CANARA BANK,. CIRCLE OFFICE, M.G.ROAD, BENGALURU - 560 001. 2

3. THE ASSISTANT GENERAL MANAGER CANARA BANK (e-SYNDICATE BANK), BWSSB BRANCH, RAJDOOTH COMPLEX, 10, 1ST FLOOR, MYSORE BANK CIRCLE, BENGALURU - 560 009.

4. THE EXECUTIVE DIRECTOR CANARA BANK, CORPORATE OFFICE, BENGALURU - 560 002.

5. THE JOINT DIRECTOR PENSION PAYMENT TREASURY, NRUPATUNGA ROAD, BENGALURU - 560 001. ... RESPONDENTS (BY SMT.NAYANA TARA B.G., ADVOCATE FOR R1 TO R4; SRI N.KUMAR, AGA FOR R5) THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE R-3 SHALL CONSIDER REPRESENTATION DTD 22-07-2021 VIDE ANNEX-H WITH IMMEDIATE EFFECT. THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR

ORDER

S ON 14-11-2022, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The petitioner is before this Court seeking a direction to the respondents by issuance of a writ in the nature of mandamus to consider her representation dated 22-07-2021. 3

2. Heard Sri Hanumanthappa B. Haravi Gowdar, learned counsel appearing for the petitioner, Smt. B.G. Nayana Tara, learned counsel appearing for respondents 1 to 4 and Sri N. Kumar, learned Additional Government Advocate appearing for respondent No. 5.

3. Shorn of unnecessary details, facts in brief are as follows:- The petitioner is the wife of one C. Sudhakar who was working as a Second Division Assistant in the office of the Deputy Commissioner of Police, CAR (Central), Bangalore who served the Department from 08-10-1982 to 29-12-2004 for about 22 years and dies on 29-12-2004. After the death of the husband of the petitioner, pension payment order for payment of family pension comes to be issued in favour of the

petitioner commencing from 30-12-2004 in terms of pension payment order dated 22-07- 2005. An amount of Rs.2430/- was deposited every month into the account of the petitioner maintained at Syndicate Bank, BWSSB Branch, Gandhinagar, Bangalore. On 07-11-2016 the petitioner visits the Bank only to be told that she cannot operate the account as there was some excess payment made to the family pension 4 account of the petitioner. Immediately thereafter, the petitioner represents to the Bank requesting the Bank to unblock the account which would enable her to draw family pension. This was not acceded on the information that Rs.50,000/- was deposited in excess which was more than the entitlement of the petitioner as family pension.

4. At that juncture, the petitioner gives a representation stating that the Bank is at liberty to recover Rs.50,000/- excess pension paid. The representation was submitted on 18-03-2017. Even then the account of the petitioner was not unblocked. Years passed by and the petitioner goes on representing to the Bank and made a complaint to the Ombudsman when she received the information that her actual family pension was Rs.6732/- and excess amount of Rs.2,34,158/- deposited into the account was held in the SB account of the petitioner and was stopped from withdrawing the same as the account was put on hold. The petitioner also complains to the competent authority at the Canara Bank (Bank for short) as by then Syndicate Bank had merged into Canara Bank, seeking unblocking of her account. The last of the 5 representations having gone unheeded, the petitioner knocks the doors of this Court in the subject petition seeking a direction to the Bank for unhindered release of family pension qua the entitlement of the petitioner.

5. The learned counsel appearing for the petitioner contends that the petitioner has been approaching the Bank or the 5th respondent/Treasury Officer for redressal of her grievance and even as on date the grievance is not redressed and the petitioner is not in a position to operate her account even, as the family pension account of the petitioner would get blocked until remittance of Rs.2,34,158/- is made by the petitioner. He would submit that the petitioner had initially offered that an amount of Rs.50,000/- be deducted from her account in 2016 itself. Six years have passed by with the respondents doing nothing and, therefore, the arrears have now increased.

6. On the other hand, the learned counsel appearing for respondents 1 to 4, submits that her submissions be taken as objections and would contend that on the instructions of the 5th respondent to block the account it was done so and the same status continues even as on date. No fault can be found with the officers of the Bank who have only followed the instructions of Government through its Treasury. She would further contend that the apprehension of the petitioner that it would again get blocked in future is unwarranted, though amount of excess pension has been paid to the account of the petitioner. She would vehemently defend the action of the officers of the Bank.

7. The learned Additional Government Advocate, on instructions, submits that there is excess amount that has been deposited into the account of the petitioner and the excess payment had to be recovered. No fault can be found with the action of the Government, as Government has all the power to recover excess amounts paid. He would contend that it is the officers of the Bank that are responsible for this problem, as the Bank has a contract with the Government, the Bank has indemnified the State of any such problem, particularly of excess payment of pension. He would submit that the State cannot be held responsible in any manner. 7

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

9. The petitioner is the widow of one C.Sudhakar, a Second Division Assistant working in the office of the Deputy Commissioner of Police who died in harness on 29-12-2004. The death of the employee in harness results in the petitioner getting entitled to payment of family pension. Accordingly, family pension was determined and paid to the petitioner in terms of the pension payment order dated 22-07-2005. The pay scale of the employee at the time of his death on 29-12-2004 was Rs.3300-6300. In terms of the said pay scale, since the employee had died in harness till the date of his superannuation the petitioner was entitled for full pension of the employee, family pension was thus determined at Rs.2430/- plus admissible dearness allowance.

10. The said full family pension payable to the petitioner was up to 29-12-2011, the date on which the husband of the petitioner would have retired on attaining the age of superannuation if he was 8 to be in service. Since he died in harness, for those 7 years, the petitioner got full pension of what her husband would have got on his superannuation. After 30-12-2011 the petitioner became entitled to normal family pension which was assessed at Rs.1215/- with admissible dearness allowance. Every month Rs.2430/- was being paid as family pension to the account of the petitioner maintained at the Syndicate Bank, BWSSB Branch, Gandhinagar. The admissible dearness allowance at that point in time was Rs.1,555/-. This deposit comes about up to 2011. In the year 2011 the pension of the petitioner ought to have been shifted from regular pension to 1/3rd of the regular pension which would be the family pension entitlement of the petitioner. This appears to have been missed the eye of the respondents. Later, it appears that the respondents realized that even after 2012 excess payment was deposited into the account of the petitioner which by then had become Rs.50,000/-.

11. On the ground that excess pension was deposited into the account of the petitioner, the petitioner was stopped from operating the account or drawing money from her family pension account. It is to be noticed, that it was not the folly of the petitioner or it was a misrepresentation on the part of the petitioner that excess pension was deposited into her account. The petitioner represented to the Bank on 07-11-2016 which reads as follows: Sub: Non-drawal of amount from my family pension account. I was informed by the Bank that my family pension account cant be drawn due to excess amount paid over the years. Accordingly, I request you to furnish a copy of excess payment in order to take up with appropriate authority to redress my case.

(Emphasis added)

Again on 16-11-2016 the petitioner gives a representation in a little detail that when she went to withdraw family pension amount, she was surprised to notice that it showed insufficient balance and when enquired with the Branch she was informed that the Bank has received a letter from the Accountant Generals Office informing it that excess amount of Rs.52,000/- is paid and the same has to be recovered from the account of the petitioner. The petitioner was shocked as she

had not received any notice/intimation from Accountant Generals office or from the Branch. She meets the Assistant General Manager of the Branch, who also did not know why the account had been blocked and he only gave a letter received from the Accountant Generals office.

12. It is then the petitioner meets the concerned officer at the Accountant Generals office who had only made a note regarding details of the amount in a small slip all for the reason that there was some excess amount paid. The petitioner offered that if there was excess to recover it in installments of Rs.2000/- a month as she was not in a position to pay at one lumpsum. This was also not acceded to by the Bank. Again in the year 2017 on 18- 03-2017 the petitioner gave a representation to the Bank which reads as follows: Sub: Rs.50,000/- against recovery of excess pension paid This reference to the subject mentioned above I the undersigned have given consent to debit Rs.50,000/- against the excess payment, but till date it has not been done from the Bank (BWSSB Branch). My pension amount has to be revised from 2011, since one year I am contact your goodself. It has not been done from your end. Now once again I request you to first set right my actual pension. I will get an idea of the amount to be eligible for pension. Then I can think of the repayment of the excess paid.

(Emphasis added)

11 The representation was reiterating that she had given consent to debit Rs.50,000/- which was the excess amount but till date no debit had been done. She also brought it to the notice of the Bank that her family pension has to be revised from 2011 and since one year she has been contacting the Bank for the said purpose but the same has not been done. She pleads for setting right the pension anomaly. Even then the anomaly that was there in the pension was not set right. Long thereafter, she is informed that excess payment to the account of the petitioner reached to Rs.2,34,158/- and, therefore, the account will not be permitted to be operated. This leaves the petitioner to approach the Banks Ombudsman in terms of her complaint dated 13-07-2021. The complaint reads as follows: Sub: Recovery of Excess amount (Family Pension) paid by Nationalized Banks Ref: My letters to Syndicate Bank 1. Dated 07.11.2016 addressed to AGM, BWSSD Branch 2. Dated 16.11.2016 addressed to Regional Office 3. Dated

18.03.2017 addressed to AGM, BWSSB Branch with reference to the subject and reference cited above, I would like to bring to your kind notice the following few facts for your kind consideration and needful action. I am aged 62 years (Senior Citizen) and Family Pension holder drawing pension from Canara Bank (e-Syndicate Bank) BWSSB Branch. On 21.06.2021 I went to withdraw cash from ATM but to my surprise I did not get cash and went and enquired RPC Layout Branch they informed that my SB Account is blocked. Without informing me the facts, all of a sudden my SB Account is blocked. This is the second time it is happening. When enquired with the Bank, I was informed that the account was blocked as excess pension amount of Rs.50,000/- was made to me. On 18.03.2017 I gave letter to AGM, Syndicate Bank, BWSSB Branch to recover the amount of Rs.50,000/- (Rupees fifty thousand only) against the excess pension paid. But no action was taken by the Bank. Copy of the letter enclosed. Since 2016 I am running to AGs Office and Syndicate Bank, BWSSB Branch to set right the issue and given letter also. But till date the issue is not sorted out. On 16.11.2016 I have given letter to Regional Head, stating that I do not have any source to pay lump-sum amount, hence the same may be deducted from my Pension Account monthly installment of Rs.2,000/- (Rupees two thousand only). The very next day DGM Regional Office personally met AGM, BWSSB Branch and instructed to do the needful in the matter. But no action was taken in the matter. After frequent follow-up from my side on 3rd April 2017 actual pension of Rs.6,732/- (Rupees Six thousand Seven hundred and Thirty Two only) was fixed (pass sheet and Copy of the letter enclosed). I recently met the Manager Canara Bank (e-Syndicate Bank), BWSSB Branch, he took me to discuss the issue with the Higher Officer but, the Officer did not allow me to enter into his cabin and shouted at the Manager. On 19.06.2021 I have received SMS stating that an amount of Rs.2,34,158.00 has been kept as hold in my SB Account and I am not able to draw cash for my day to day 13 expenses from my SB Account since it is blocked. I was not having single penny for my bread also and I have to pay rent, electricity bill, etc. Recently I suffered from COVID19. To bear the medical cost I have borrowed money on interest privately and I have to pay monthly interest of Rs.3,000/- (Rupees three thousand only). Since 2016 Syndicate Bank, BWSSB Branch staff are mentally harassing me and from 21.06.2021 I am spending

sleepless nights finding difficult to bear day to day expenses. I met Regional Office, Canara Bank and explained the situation. They informed to meet AGM, BWSSB Branch. On 05.07.2021 I met AGM and the Manager Canara Bank (e-Syndicate Bank), BWSSB Branch, Bengaluru they have informed that Bank will arrange for loan to reimburse the said amount and issued me loan application. After submitting the loan application It is understood that I am eligible for Rs. 1,30,000/ only. The amount is not sufficient to clear the excess payment. If the Bank had recovered Rs.50,000/- (Rupees Fifty Thousand only) based on my letter of 18.03.2017, the amount would not have swelled to Rs 2,34,158/- (Rupees Two Lakh Thirty Four Thousand One Hundred and Fifty Eight only), I reiterate, there is no fault on my side. To cover-up their mistake they are pressurizing me. I am being harassed. Now, I am getting monthly Family Pension of Rs.9,456/- (Rupees nine thousand four Hundred and fifty six only). I do not have any other source to repay the amount in single stretch. In view of the aforesaid, I request your goodself to instruct the concerned authority to deduct Rs.3,000/- (Rupees three thousand only) from my monthly pension amount and set-right the issue amicably at the earliest and instruct the Bank/Branch not to block my account without notice to me, in future.

(Emphasis added)

14 If the grievance of the petitioner, as quoted hereinabove is noticed, it would demonstrate lassitude on the part of the Bank towards its customers, particularly, of senior citizens. The petitioner cries foul of the treatment meted out to her by the officers of the Bank. She records that since 2016 the branch staff have mentally harassed her and, that she is spending sleepless nights, finding it difficult to bear day-to-day expenses. The officer whom she wanted to meet to get redressal of her grievance does not even allow her into the cabin. She pleads that she has received a message that an amount of Rs.2,34,158/- has been kept on hold and she is not able to draw any cash for day-to-day expenses. Pleading thus, she also states that to bear day-to-day expenses she has borrowed money privately for interest. Even with all these agony the petitioner offers that Rs.3,000/- be deducted from the monthly pension and the anomaly be set right and requests that the account of the petitioner should not be blocked. An identical complaint was registered before the Assistant General Manager of Canara Bank. The complaint

so submitted to the Assistant General Manager of Canara Bank reads as follows:

15. To The Assistant General Manager Canara Bank (e-Syndicate Bank) BWSSB Branch Rajdhooth complex, 10, 1st Floor, Mysore Bank Circle Bengaluru - 506 009 //REGISTERED AD // Dear Sir Sub: Request to release SB Accounts 1. SB A/C. No.04462010055926 BWSSB Branch (Family Pension) 2. SB A/C.No.06562010046240 RPC Layout Branch Ref: My letters to Syndicate Bank 1. Dated 16.11.2016 addressed to Regional Office 2. Dated 07.11.2016 addressed to AGM, BWSSB Branch 3. Dated 18.03.2017 addressed to AGM, BWSSB Branch

We reference to the subject and reference cited above, I would like to bring to your kind notice the following few facts for your kind consideration and needful action. I am aged 62 years (Senior Citizen) and Family Pension holder drawing pension from Canara Bank (e-Syndicate Bank), BWSSB Branch. On 21.06.2021 I went to withdraw cash from ATM but to my surprise I did not get cash and went and enquired with RPC Layout Branch they informed that my SB Account is blocked. Without informing me the facts, all of a sudden my SB Account is blocked. This is the second time it is happening. When enquired with the Bank, I was informed that the account was blocked as excess payment of pension amount was made to me.

16 On 18.03.2017 I gave letter to the then AGM, to recover the amount of Rs.50,000/- (Rupees fifty thousand only) against the excess pension paid. Copy of the letter enclosed. Since 2016 I am running to AGs Office and Syndicate Bank, BWSSB Branch to set right the issue and given letters also. On 16.11.2016 have given letter to the then Regional Head, Syndicate Bank, stating that I do not have any source to pay lump-sum amount, hence the same may be deducted from my Pension amount monthly instalment of Rs.2,000/- (Rupees two thousand only). The very next day the then DGM, Regional Office personally met the then AGM, BWSSB Branch and instructed to do the needful in the matter (Copy of the letter enclosed), but no action was taken. After frequent follow-up from my side to BWSSB branch on 3rd April 2017 actual pension of Rs.6,732/- (Rupees Six thousand Seven hundred and Thirty Two only) was fixed (pass sheet enclosed). I recently met the concerned Officer of your Branch, he took me to discuss the issue with the concerned section but, the Officer did not allow me to enter into his cabin and shouted at the Manager. On 19.06.2021 I have received SMS stating that an amount of Rs.2,34,158.00 has been kept as hold in my SB Account and I am not

able to draw cash for my day to day expenses from my SB Account since it is blocked. I was not having single penny for my bread also and I have to pay rent, electricity bill, etc. Recently I suffered from COVID19. To bear the medical cost I have borrowed money on interest privately and I have to pay monthly interest of Rs.3,000/- (Rupees three thousand only). Since 2016 it is some kind of mental harassment and from 21.06.2021 I am spending sleepless nights finding difficult to bear day to day expenses for livelihood. 17 On 05.07.2021 I visited Regional Office, M G Road and as per the instruction, of the AGM I met you and Mr Vedaprakash. After the discussion you have informed me that Branch will arrange for loan to reimburse the said amount and issued me loan application. After submitting the loan application it is understood that I am eligible for Rs.1,30,000/- only. I do not have any body to provide guarantee and the same is explained personally to Mr. Vedaprakash, I reiterate, there is no fault from my side I am being pressurized and harassed. Now, I am getting monthly Family Pension of Rs. 9,456/- (Rupees nine thousand four hundred and fifty six only). I do not have any other source to repay the amount in a single stretch. Till date I am not able to withdraw cash from my SB Account and I am finding it difficult to manage my day to day livelihood. I have given request letter on 05.07.2021 to provide me the month-wise breakup of excess pension paid from 2011 to 2016, till date no response from your side. In view of the facts mentioned above, it is requested to unblock my S8 Account to withdraw the cash for day to day expenses.

(Emphasis added)

A complaint was also registered before the Reserve Bank of India as well, which was communicated to the Bank by the Reserve Bank of India, but nothing comes about and, therefore the petitioner reaches the doors of this Court. 18

13. If the trail of representations as extracted hereinabove are noticed, it would demonstrate a callous, lackadaisical and irresponsible attitude of the officers of the Bank and the 5th respondent or the office of the Accountant General who had processed the papers of the petitioner for family pension. The petitioner, wife of the employee, who died in harness, and a senior citizen has been made to roam from pillar to post, mentally harassed, first to set her pension right, and then asking unblocking of the account, unmarking the hold on Rs.2,34,158/-. When the

petitioner has come to know that there was excess payment made into her account, the petitioner offered to recover the said excess amount of Rs.50,000/- by way of installments. Five years pass by; no action is taken on the representation of the petitioner and in the 5th year, again the account of the petitioner is blocked, now for the reason that excess pension that is paid to the petitioner up to 2021 was Rs.2,34,158/-.

14. Therefore, it is on account of the Bank or the 5th respondent who sleep over the issue for 5 long years while excess payment goes on getting deposited into the account. The 19 petitioner, at the outset, offered that Rs.50,000/- which was excess in 2016 to be withdrawn from her account and her pension account be set right. To the plea or the request of the petitioner, the officers turned a deaf ear and a blind eye and have apparently harassed the petitioner, a senior citizen. The Bank officials wake up from deep slumber in the year 2021 and again generate the same harassment, towards which the petitioner has been asking for the last 6 years that her pension be set right and the amount so paid in excess, which was at that point in time was Rs.50,000/- be recovered.

15. For the act of blatant callousness on the part of the Bank, the petitioner is now made to suffer a recovery of Rs.2,34,158/- or blocking of her account. The petitioner was ready and willing to pay Rs.50,000/- in 2016 and it is the Bank that kept quiet over the request and only woke up in 2021 by which time the excess pension has reached the figure of Rs.2,34,158/-. The honesty and anxiety of the petitioner is also required to be noticed with appreciation. In 2016 the petitioner requested that excess payment of pension of Rs.50,000/- be recovered in equal monthly installments of 20 Rs.2000/-. Even in 2021 she offered if it was really a payment in excess, Rs.3,000/- be deducted from her pension account every month.

16. The result of excess pension is directly attributable to the Officers of the Bank who had a duty to correct the pension and recover excess amount way back in the year 2016 when the petitioner had offered such recovery to be made. The Bank having not done so for 6 years, cannot now seek to recover even a rupee from the hands of the petitioner. This would not mean that no recovery in the case at hand

shall be made, as the excess pension that is paid is not of the petitioner nor the money belonging to the such officers, it is public money. Therefore, recovery shall be made from the officers of the Bank who have failed to act for all these years and set the pension of the petitioner right. Such officers shall be identified by the Bank and proceedings be initiated against them for such recovery, strictly in a manner known to law and in consonance with the principles of natural justice.

17. If there is any section of the society that has to be given care and compassion over and above other classes are those senior 21 citizens or the elderly class. It must be remembered that utterance of any unkind word or an attitude of being unkind towards them would be enough to make tears roll down their cheeks. Therefore, authorities particularly, which are declared to be a State under Article 12 of the Constitution of India or any authority performing public function has to now wake up and redress the grievances of those citizens, particularly, pensioners or any widow drawing family pension, immediately, so that they do not suffer. The feeble voices of the pensioners and the old, cannot be left to be turned a deaf ear and their problems cannot also be turned a blind eye. Therefore, this Court admonishes the act of the officers of the Bank who have allegedly harassed the petitioner over payment of pension and have displayed apathy towards her grievances and would make it clear that any such iteration would be viewed seriously.

18. A parting observation, in the case at hand, may not be inapt. We are in a digital age, excess payment is immediately reflected on the screens of computers through which the amounts are disbursed. It is only to be noticed by the person operating the computer or the person who takes the decision on transferring the 22 monthly pension. In such a case, neither the hardware nor the software would be responsible, but it is the heartware, heartware I mean, the person who handles the account and transfers the amount through the computer. It is that heartware that has to detect that something is amiss. If only excess payment is detected at early stages, there would be no loss caused to the Bank/State or agony to the holder of an account. It is always the folly of the officers who handle such accounts, who either do not act properly or display lackadaisical attitude towards the problems of its customers even if brought to their notice, particularly, in matters

concerning pension. Officers who display such remissness should not be tolerated. Option of initiating disciplinary proceedings against those officers for imposing punishment for the act of derelict of duty should be explored, so that tax payers money is not put at jeopardy.

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

ORDER

(i) Writ Petition is allowed. 23 (ii) A mandamus issues to the respondents to unblock the account of the petitioner, if blocked and is further held that no recovery can be made of the alleged excess payment from the account or hands of the petitioner. (iii) The excess amount of Rs.2,34,158/- shall be recovered from those officers who have been callous, bearing in mind the observations made in the course of the order. (iv) The action against the officers shall be taken in accordance with law, by fixing responsibility and after affording all reasonable opportunity to them. (v) The Bank shall not cause any impediment for payment of family pension to the petitioner in future, except in consonance with law. Sd/-
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