

**COURT No. 2, ARMED FORCES TRIBUNAL,**  
**PRINCIPAL BENCH, NEW DELHI**  
**(Through Virtual Hearing)**

17.

**MA 2267/2020 in MA 244/2020 in OA 204/2011**

**Smt Anusua Roy** .....**Applicant**  
**Versus**  
**Union of India & Ors.** .....**Respondents**

**For Applicant** : Mr. Mohan Kumar, Advocate  
**For Respondents** : Mr. V.S.Tomar, Advocate  
None for SBI

**With**

18.

**CA1/2021 in OA 204/2011**

**Smt Anusua Roy** .....**Applicant**  
**Versus**  
**Union of India & Ors.** .....**Respondents**

**For Applicant** : Mr. Mohan Kumar, Advocate  
**For Respondents** : Mr. V.S.Tomar, Advocate

**CORAM:**

**HON'BLE MS.JUSTICE SUNITA GUPTA, MEMBER (J)**  
**HON'BLE VICE ADMIRAL P.MURUGESAN, MEMBER (A)**

**ORDER**  
**23.11.2021**

None is present for the bank despite pass over.

Counsel for the applicant submits that as per the letter dated 20.04.2020 issued by the respondents, the recovery is being done for the period from 01.07.2014 to 31.12.2019 which is illegal and against the directions issued by the Hon'ble Supreme Court in number of judgments. A sum of Rs. 33,431/- P.M. is being deducted from the pension of the applicant which be stayed.

In reply, the Bank has taken the plea that in the month of December 2012 family pension data of Smt. Anusua Roy in software form was received by the Centralized Pension Processing Cell at

Chandni Chowk, Delhi, from the Central Secretariat Branch of State Bank of India. In that data Late A.K.Roy's rank was received as "COLONEL" and on the basis of this data in the Bank's system, family pensioner was getting her family pension and its subsequent arrears of family pension.

But there after during the course of internal auditing conducted by CPPC, Chandni Chowk, it was revealed that family pensioner Smt. Anusua was receiving family pension as per table 28 of circular 555 whereas Late Col A.K.Roy was Colonel in TERRITORIAL ARMY. Thus Smt. Anusua Roy was entitled for family pension as per table 30 of the circular 555 meant for TERRITORIAL ARMY.

Apart from this the qualifying service of Late Col. A.K.Roy in the migrated data was shown as 29 years where as per PPO the qualifying was only 18 years. Rectifying this software error in the migrated data a separate calculation sheet of due and drawn was prepared by the SBI, CPPC, Chandni Chowk, Delhi, and it was found that from July 2014 to December 2019 an excess amount of Rs. 15,19,146/- was paid to the pensioner in the form of pension and its subsequent arrears.

This error in pension amount was needed to be corrected hence the basic family pension of Smt. Anusua Roy was reduced to Rs. 85,720/- from Rs. 1,08,665/- and apart from this to recover the excess amount paid, the recovery process as per the RBI norms and as per the undertaking given by family pensioner Smt. Anusua Roy to the Bank was initiated. Reference is also placed on circular dated 17.03.2016 issued by Reserve Bank of India.

Learned counsel for the applicant, however, submits that the letter dated 17.03.2016 stands withdrawn by RBI vide their letter dated 21.01.2021. Further as per para 103.2 of Defence Pension Payment Instructions (Defence PPI), 2013 issued by PCDA(Pension) over payment of pension not deducted within 12 months of the date of first erroneous charge cannot be recovered without the order of PCDA (Pension). Moreover, as per provisions of circular No. 520 dated 24.12.2013 next of kin of TA officers are entitled to Special Family Pension as per rates provided for officers other than AMC/ADC/RVC categories as Special Family Pension does not depend upon qualifying service. Furthermore, para 194 of Pension Regulations for the Army (2008) stipulates that Special Family Pension/Liberalised Family Pension may be granted under the same conditions and at the same rate as admissible to regular Army Personnel. That being so, recovery is illegal which is causing great hardship to the applicant who has to take care of one unemployed son and other handicapped son besides herself.

Mr. V.S.Tomar, Advocate for the respondents controverted these submissions. However, this is a matter which requires consideration.

Moreover, none has appeared for the bank to explain, how recovery can be affected for the past period. Under the circumstances, State Bank of India, CPPC, Chandni Chowk Branch, New Delhi is directed not to recover Rs.33, 431/- per month from the special family pension of the applicant on the alleged ground of excess payment of Rs.15,20,754/- for the period 01.07.2014 to 31.12.2019 till further orders.

Copy of this order be sent to State Bank of India for compliance.

Copy of this order be also given to both the parties as per their request.

Relist on **27.01.2022.**

**(JUSTICE MS. SUNITA GUPTA)**  
**MEMBER (J)**

**(VICE ADMIRAL P.MURUGESAN)**  
**MEMBER (A)**

nk/ap