2026:AHC-LKO:63471-DB

AFR

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 6722 of 2026

Ms. Neha Mishra

.....Petitioner(s)

Versus

Reserve Bank Of India Thru. Governor Central Office Building Mumbai And 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Syed Mohammad Haider Rizvi, Asheesh Kumar, Shakti Kumar Verma
Counsel for Respondent(s)	:	Anurag Srivastava

Court No. - 3

HON'BLE SHEKHAR B. SARAF, J.
HON'BLE ABDHESH KUMAR CHAUDHARY, J.

1. Heard learned counsel appearing on behalf of the parties.

2. This is a writ petition under Article 226 of the Constitution of India, wherein the writ petitioner has prayed for the following substantial relief(s):

> *"i. Issue a writ, order or direction in the nature of MANDAMUS, commanding, the Respondent Bank to forthwith, unconditionally, and immediately credit the unlawfully expropriated sum of INR 19,90,693/- into the Petitioner's independent bank account (A/c No.: 35497622710);*
>
> *ii. Issue a further writ in the nature of MANDAMUS directing the Respondent Bank to pay penal interest on the aforesaid illegally debited amount from the date of extraction, i.e., 17.02.2026, at 15% p.a. until the date of actual realization;*
>
> *iii. Issue a writ in the nature of MANDAMUS directing the Respondent Bank to restore the Fixed Deposit of the Petitioner and ensure the levying of the fixed interest accrued thereupon.*
>
> *iv. Issue a writ, order, or direction in the nature of MANDAMUS commanding the Respondent State Bank of India (Respondents No. 2 to 5) and SBI General Insurance (Respondent No. 6) to internally process,*

honour and settle the outstanding balance of Loan Account No. 39777257954 through the funded insurance cover arising out of the borrower's demise, without shifting any financial liability, directly orindirectly, onto the independent savings or earnings of the widowed Petitioner;

V. Issue a writ, order, or direction in the nature of CERTIORARI, calling for the entire records of the Respondent Bank pertaining to Loan Account No. 39777257954, and quashing any and all internal administrative orders, decisions and coercive notices that authorized or precipitated the impugned unlawful debit, against the present petitioner;

vi. Issue a writ, order or direction in the nature of MANDAMUS commanding the Respondent Bank to pay exemplary and punitive compensation to the tune of INR 25,00,000/- (Rupees Twenty-Five Lakhs) to the Petitioner for the egregious mental agony, emotional trauma and flagrant violation of her fundamental rights under Articles 14, 21 and the right under Article 300A of the Constitution."

3. The brief facts of the case are that the petitioner's husband was an Assistant Professor at Medicine Hospital, Ring Road, Lucknow. The Assistant Professor had availed a personal loan (Xpress Credit Loan) from the State Bank of India for Rs.15 lacs on 03.11.2020. Admittedly, the petitioner was neither a signatory nor a consenting party thereto as a co-applicant or a co-borrower or a guarantor or a surety or an indemnifier or a nominee. In nutshell, there exists no privity of contract between the petitioner and the respondent- State Bank of India. Further, it is available from the records that the said personal loan was secured through an insurance cover arranged from SBI General Insurance, for which a premium of INR 8,803/- was also allegedly paid by the husband of the petitioner.

4. It appears that while taking the said loan, the Assistant Professor had given an irrevocable standing instruction dated 3rd November, 2020 that reads as follows:-

"3. I hereby authorise State Bank of India, JANKIPURAM LUCKNOW Branch to collect and receive any amount payable towards provident

> *fund, gratuity, pension or similar dues on my behalf in the event of my retirement/resignation/termination or discontinuation of my services for any reason whatsoever.*
>
> *4. I agree that the aforesaid authority shall be irrevocable till the entire amount of loan together with interest stands liquidated. I further undertake to execute necessary authorisation/documents as deemed just and necessary by the Bank.*
>
> *5. I hereby undertake that I shall not shift/close my salary account with SBI and will continue to route my salary from the same account till the currency of the loan."*

5. It emerges from the records that the husband of the petitioner left for his heavenly abode on 6th May, 2021 on account of Covid-19. The respondent-Bank instead of pursuing steps as permissible under law for recovery of the personal loan amount extended to the deceased husband of the petitioner, started coercing the petitioner for payment, including issuing a legal notice dated 23.09.2025, calling upon her to make payment of the full outstanding of Rs.13,87,382/- along with interest, failing which the Bank proposed to initiate legal proceedings against her including that of (i) Civil Suit for recovery of dues, (ii) initiating recovery proceedings under applicable banking and recovery law and (iii) reporting to credit recovering agencies.

6. Although, a reply to the said notice was given by the petitioner to the respondent-Bank, however, it appears that subsequently the Bank as a punitive measure placed the petitioner's salaried account on-hold on 12.09.2025. The petitioner was thus forced to file a complaint with the Ombudsman, Reserve Bank of India, and it was only with the interference of Ombudsman that the hold created by the Bank was removed from her salary account.

7. Apparently, the parties thereafter started engaging in negotiations, however in the intervening period, the respondent-Bank encashed the petitioner's fixed deposit and as such debited an amount of Rs.19,90,693/- from her bank account maintained in the respondent-Bank. Interestingly, the Bank while debiting the petitioner's bank account has shifted her

account from Ashiyana Branch to Jankipuram Branch, and then back from Jankipuram Branch to Ashiyana Branch, allegedly without her permission and merely for debiting the said amount as the loan was extended to the husband of the petitioner from Jankipuram Branch. It is in this background that the present writ petition has been filed by the petitioner.

8. Learned counsel for the petitioner has argued that the petitioner has no privity of contract with the Bank and the recovery sought to be made is not legally permissible and against all banking norms. He further submits that even the undertaking given by the petitioner's husband, firstly, is illegal in law keeping in mind a catena of judgements of the Hon'ble Supreme Court that have categorically stated that retiral benefits such as gratuity etc cannot be treated as a lien or be forfeited in any manner unless the conditions in the various retiral benefit acts come into play. For example, gratuity cannot be forfeited unless the employee is fastened with liability under Section 4(6) of the Payment of Gratuity Act, 1972.

9. He relies on the judgement of the Andra Pradesh High Court in **Arevarapu Indira Vs. Indian Overseas** reported in **2021 SCC OnLine AP 1004**, wherein the Andra Pradesh High Court has relied on the judgement of the Hon'ble Supreme Court, which in our view, is relevant to this case. The relevant paragraph of the Supreme Court judgement in **Radhey Shyam Gupta Vs. Punjab National Bank** reported in **AIR 2009 SC 930** is delineated herein-below:-

> *"25. XXX. We also agree with Ms. Shobha that even after the retiral benefits, such as pension and gratuity, had been received by the appellant, they did not lose their character and continued to be covered by proviso (g) to Section 60(1) of the Code. Except for the decision in the Jyoti Chit Fund and Finance case (supra), where a contrary view was taken, the consistent view taken thereafter support the contention that merely because of the fact that gratuity and pensionary benefits had been received by the appellant in cash. it could no longer be identified as such retiral benefits paid to the appellant.*
>
> *a) Therefore, the writing the wall is clear to the effect that pension and gratuity and of course, the stipend and other benefits like provident fund*

etc. even after changing hands from the employer, who was their trustee, to the employee who is the beneficiary, still retain their character as such, and are exempted from attachment by any court decree or order.

b) In the light of above jurisprudence, this Court cannot countenance the claim of the respondent No. 1 that it holds a lien over the terminal benefits of the deceased to appropriate view against the in of outstanding loan commitment/authorization letter issued by him during his life time. As rightly argued by learned counsel for the petitioner. what cannot be done through Court's injunction or decree cannot also be done privately and unilaterally by the respondent No. 1 which is against the law."

10. Per contra, learned counsel for the State Bank of India has vehemently relied on the irrevocable standing instructions given by the deceased husband of the petitioner. According to learned counsel, the said standing instructions, which were given by the husband of the petitioner while obtaining personal loan, legally permitted the Bank to recover the said amount from the gratuity etc. He has relied on the judgement of the Division Bench of Karnataka High Court in **M/s. Canara Bank Vs. Smt. Shantha Kumari** reported in **2024 SCC OnLine Kar 21264** to buttress his arguments that forfeiture of gratuity and other retiral benefits may be barred without following due procedure under the specific acts, but recovering the dues from the said gratuity and other retiral benefits is not a bar. He relies on paragraph Nos.25, 26 and 27 of the said judgement, which are delineated herein-below:

"25. The Appellate Authority, in its impugned order, which was under challenge before the learned Single Judge, has relied upon the judgment in the case of Jaswant Singh Gill -Vs.- Bharath Coaking Coal Limited (supra), wherein the Supreme Court has held, the right of Gratuity is a statutory right. The appellant was not charged with nor was given an opportunity that his Gratuity will be withheld, as a measure of punishment and hence, could not be forfeited. Suffice to state, the said judgment has no applicability to the facts of this case.

26. This we say for the reason that the issue in question in the present case is, not of forfeiting the Gratuity as a measure of punishment, but recovering the dues from the Gratuity.

27. So, in view of our above discussion, we hold the learned Single Judge has erred in dismissing the writ petition, which was filed only to recover/adjust the dues as were payable by the deceased employee and nothing more. The judgment of the learned Single Judge dated 13.09.2022 in Writ Petition No.11463/2020 and order(s) dated 31.10.2019 (and Corrigendum dated 13.11.2019) of the Appellate Authority are set aside."

11. He further relies on the judgement of the Hon'ble Supreme Court in **Civil Appeal No.3007 of 1995; State of Haryana and others Vs. K.N. Dutt** reported in **(1995) 3 SCC 144**, wherein the Supreme Court reversed the order of the Division Bench that had directed refund of the alleged illegally deducted amounts by the State Government from the gratuity of the respondent.

12. We have given our anxious thoughts to the judgements adverted to by the learned counsel for the respondent-Bank and are of the considered view that the same are not applicable to the facts of the present case and are clearly distinguishable. Apparently, in both the judgements the question was of forfeiting the gratuity by an employer and in that facts of the case, the Hon'ble Supreme Court has held that the gratuity can be withheld. However, presently the issue is not of withholding the gratuity by an employer but allegedly deducting an amount illegally from the bank account held by a third party, i.e., the wife of the deceased. In any case, Bank is not the employer of the deceased husband of the petitioner and there are also no documents on record to show as to what amount and as to in which circumstances any gratuity amount received after the death of the husband of the petitioner is traceable to the amount debited from the wife's account.

13. Coming to the facts of the case, we find that the respondent-Bank has appropriated the money from the fixed deposit that was in the name of the petitioner. This fixed deposit account had been opened by the petitioner in the year 2025 in Ashiyana Branch of the State Bank of India. It appears that this account was transferred allegedly on the request of the petitioner to Jankipuram Branch of the State Bank of India, wherein the loan had been taken by the petitioner's husband. Immediately, upon transfer of the account,

the amount was debited from the account of the petitioner and transferred to the State Bank of India (this amount was the amount that was due and payable by the petitioner's husband to the State Bank of India). Having done so, the account was once again transferred back to Ashiyana Branch of the State Bank of India. The entire process stinks of mala fide action on the part of the State Bank of India not only with regard to the procedure adopted in debiting the fixed deposit account but also with regard to substantive law that did not allow the State Bank of India from debiting an account of an individual with whom they had no privity of contract or any relation under law. Learned counsel for the respondent-Bank failed to show us any law under which an amount recoverable from a husband can be straightaway debited from the wife's fixed deposit account. In fact on a query raised by this Court to learned counsel for the Bank as to whether there was any mechanism for debiting in such manner, in case the Bank account of the wife was held in some other Bank. Learned counsel has fairly submitted that the said mechanism was not possible. Apparently, the Bank tried to take advantage of the situation and has merely debited the bank account of the petitioner, as the petitioner had a fixed deposit in the respondent-Bank. According to this Court, this is a serious breach of trust reposed on the Banks, who were merely custodian of the bank account and were holding the money in trust for and on behalf of the petitioner.

14. It is to be further noted that the death of the petitioner's husband took place in the year 2021 due to Covid, the petitioner received the payment of gratuity and other retiral benefits in August, 2022 and the fixed deposit was opened by the petitioner in the year 2025. The Bank may very well have a legal right to proceed against the petitioner as the legal heir of the deceased and recover the amount of dues with regard to the personal loan taken by the deceased, but the same has to be done as per the due process of law established in India and not in an arbitrary, capricious and whimsical manner as is evident from the present factual matrix.

15. The entire process that has been adopted by the Bank of surreptitiously transferring the fixed deposit from one Branch to another to debit the same and upon debiting the same once again transferring the account back clearly indicates that the intention of the Bank was to achieve its purpose in a surreptitious manner. The entire

process is abominable and clearly an anathema to banking practice. The action of the Bank cannot be justified in any manner whatsoever.

16. In light of the same, we direct immediate refund of the amount that has been debited from the account of the petitioner along with interest at the fixed deposit rate that the petitioner was enjoying within a period of four weeks from date.

17. Furthermore, the deplorable action of the Bank authorities in the present case, requires exemplary and punitive compensation to be paid to the petitioner. Though the petitioner has claimed a sum of Rs.25 lacs for the egregious mental agony, emotional trauma and flagrant violation of her fundamental rights, we are of the view that an amount of Rs.1 lac would be appropriate keeping in view the overwhelming circumstances narrated herein-above. Accordingly, we direct the respondent-Bank to pay a compensation of Rs.1 lac to the petitioner within a period of four weeks from date.

18. With the above directions, the writ petition is allowed.

(Abdhesh Kumar Chaudhary,J.) **(Shekhar B. Saraf,J.)**

September 10, 2026
Ashutosh