

R-15.

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

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Date of Decision: 09.11.2009

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LPA No.594/2002

BISHAMBER LAL KAPUR THROUGH LRS. Appellants

Through: Ms.Urmila Sharma, Advocate.

versus

CHAIRMAN, ALLAHABAD BANK & ORS Respondents

Through: Mr.Dhruv Mehta and Mr.Mohit
Abraham, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE SURESH KAIT

1. Whether the Reporters of local papers may be allowed to see the judgment? No.
2. To be referred to the Reporter or not? No.
3. Whether the judgment should be reported in the Digest? No.

PRADEEP NANDRAJOG, J. (ORAL)

1. The appellant, employed with the Allahabad Bank has died during the pendency of the appeal. His wife and children are prosecuting the appeal as his legal heirs.

2. Writ petition, challenging the disciplinary proceedings as also the order passed after the enquiry as also the order dismissing the appeal filed by the appellant against the penalty of dismissal from service, has failed.

3. As per the respondent Bank, post dismissal of the appellant, benefits payable i.e. amount lying in deposit in the Provident Fund Account of the appellant was tendered which tender was refused to be accepted by the appellant as he thought that he has a great chance of success in the appeal. Probably, the appellant desired that the money should remain in the Provident Fund Account maintained by the respondent in the name of the appellant, hoping that the statutory interest would accrue thereon.

4. According to the respondent Bank, since the necessary cheque was drawn and tendered to the appellant, a corresponding debit entry was made in the Provident Fund Account of the appellant. Since the appellant did not receive the money under the cheque, the amount due under the cheque was credited in the Sundry Account.

5. The said Sundry Account bears no interest.

6. The appellant filed a criminal complaint against the officers of the Bank alleging misappropriation of the money lying to his credit in the Provident Fund Account.

7. The appeal had reached for hearing on 03.11.2009 when learned counsel for the legal heirs of the deceased appellant made a submission that if the respondent Bank were

to pay over the money lying in deposit in the Provident Fund Account of the deceased appellant as on the date, the account was debited on money being transferred in the Sundry Account, together with reasonable interest, the legal heirs of the deceased appellant would not like to continue with the prosecution of the appeal on merits, and would withdraw the criminal complaint filed against the officials of the Bank.

8. Accordingly, the instant appeal was retained on Board, requiring the respondent Bank to revert back to this Court.

9. Learned counsel for the respondent Bank informs that he has the consent of the respondent Bank to concede before this Court that in order to give a quietus to the controversy, the respondent Bank is willing to release the amount which was lying in credit in the Provident Fund Account of the deceased appellant together with interest as applicable on Saving Bank Account, from time to time, from the date the amount was transferred in the Sundry Account till date of payment.

10. Learned counsel for the legal heirs of the deceased appellant accepts the offer and states that the cheque in question be tendered in the name of Smt. Sudesh Kapur, the

wife of the deceased appellant and the consent of the children of the deceased appellant be taken on record that on payment of the said amount, it shall be treated to be a complete discharge by the respondent Bank vis-à-vis the estate of the deceased.

11. We note that the appellant was survived by his wife Mrs. Sudesh Kapur, two sons, namely, Rajan Kapur and Neeraj Kapur as also a married daughter Monika Puri.

12. Learned counsel for the legal heirs of the deceased appellant gives concession not to press the appeal on merits.

13. The instant appeal, accordingly, stands disposed of without any adjudication on merits with a direction to the first respondent to pay over the amount lying to the credit of the deceased appellant in his Provident Fund Account which amount was transferred and credited in the Sundry Account. The amount shall be paid with interest at the rate applicable from time to time treating the amount in deposit in the Sundry Account of the respondent No.1 as if it was lying credited in a Saving Bank Account maintained in the name of the deceased appellant.

14. The cheque in question shall be drawn in favour of Mrs.Sudesh Kapur and would be posted to her under

Regd.A.D.Post at: Neeraj Kapur C/o Mrs.Sudesh Kapur, R/o B-VI/219, Fatehganj, Samrala Road, Ludhiana, Punjab. The amount would be tendered positively within a month from today.

15. We take it on record that upon payment of the amount by means of a cheque, the dues of late appellant shall be treated as settled vis-à-vis the wife, two sons and a daughter of the deceased appellant.

16. Learned counsel for the legal heirs of the deceased appellant undertakes on behalf of the legal heirs of the deceased appellant to withdraw the criminal complaint being prosecuted by the legal heirs of the deceased appellant; being Complaint Case No.45/2001 pending in the court of Chief Metropolitan Magistrate, Patiala House Courts, New Delhi.

17. The respondent No.1 Bank would cooperate, if any steps are required to be taken by the Bank, to facilitate the withdrawal of the criminal complaint aforementioned.

18. No costs.

**PRADEEP NANDRAJOG
(JUDGE)**

**SURESH KAIT
(JUDGE)**

NOVEMBER 09, 2009/sb