

GAHC010240932015



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4714/2015

DEBASIS DAS
S/O LT. KALI KUMAR DAS R/O CENTRAL GOTANAGAR, MALIGAON,
GUWAHATI-11, KAMRUP METRO, ASSAM.

VERSUS

UNITED BANK OF INDIA and 5 ORS,
REP. BY ITS CHAIRMAN 11, HEMANTA BASU SARANI KOLKATA-1.

2:THE CHAIRMAN
UNITED BANK OF INDIA 11
HEMANTA BASU SARANI KOLKATA-1.

3:CHIEF MANAGER

ESTABLISHMENT DEPARTMENT
O.E. UNITED BANK OF INDIA 11
HEMANTA BASU SARANI
KOLKATA-1.

4:CHIEF R.M. and DEPUTY GENERAL
MANAGER
PANBAZAR
GUWAHATI- 781001.

5:CHIEF REGIONAL MANAGER and
DEPUTY G.M.
UNITED BANK OF INDIA
SIBSAGAR REGIONAL OFFICE
DOHABORA ROAD
JORHAT-785001

6:MANAGER

UNITED BANK OF INDIA MARIANI BRANCH
P.O.MARANI
DIST. JORHAT
ASSAM.

7:CHIEF MANAGER

PUNJAB NATIONAL BANK
CIRCLE OFFICE
NILGIRI MANSION
SATSANG VIHAR
BHANGAGARH
GUWAHATI-5

8:THE CHAIRMAN

PUNJAB NATIONAL BANK
PLOT-4
SECTOR-10
DWARKA
NEW DELHI-110075.

9:MANAGER

PUNJAB NATIONAL BANK
MARIANI BRANCH
P.O.- MARIANI
DISTRICT- JORHAT
ASSAM.

10:PUNJAB NATIONAL BANK

CIRCLE OFFICE JORHAT BORBHETA TINIALI ROAD
NOWCHALIAH GAON
JORHAT
ASSAM
PIN-78506

Advocate for the Petitioner : MR.A DASGUPTA

Advocate for the Respondent : MR.S DUTTA

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 08/12/2023

Heard Mr. A. Dasgupta, learned senior counsel assisted by Ms. B. Das, learned counsel for the petitioner. Also heard Mr. S. Dutta, learned senior counsel assisted by Mr. S. Dutta, learned counsel for the respondents.

2. The petitioner before this Court is aggrieved by the denial of the 'stagnation increment' due to him by the Bank authorities. The said 'stagnation increment' was denied in terms of bipartite settlement between the Bank and the Employees. The petitioner was appointed as a Godown Clerk on 27.07.1972 in the United Bank of India and after rendering about 39 years of service he was superannuated on 30.12.2011. At the time of his superannuation he was an Officer, Grade I while serving as an Assistant of the Bank. As per the usual practice, any employee, who is in the stagnated scale of pay is entitled to having increment, which is called the stagnation increment on every 3 (three) years subject to the availing 6th stagnation increments. During the course of his employment, he was faced a disciplinary proceeding on the allegation of unauthorized absence. Although pursuant to the enquiry he was put to notice to respond in respect of the proposed punishment sought to be imposed pursuant to the completion of the disciplinary enquiry. But by order dated 13.07.2001, the punishment of "Lowering down of Basic Pay by two stages" was only imposed on the petitioner.

3. Learned counsel for the petitioner submits that the Bank authorities did not release the stagnation increment payable to the petitioner for the month of

July, 2001. Learned counsel for the petitioner submits that this was done because the bank authorities had imposed the punishment with effect from 18.06.2001, where they thought to have been imposed from 13.07.2001.

4. Learned Senior counsel submits that 18.06.2001 was the notice issued to the petitioner to submit his response towards imposition of the punishments mentioned therein. The punishment ultimately was imposed by Order dated 13.07.2001. As such, petitioner could not have been denied his stagnation increment for the month of July, 2001, which was due to him on 01.07.2001. It is submitted that because of non-grant of the stagnation increment, he has suffered financial loss ultimately in the Grade of Clerk as well as in the Grade of Officer and financial losses in his pensionary benefits. His application filed before the authorities on several dates have remained unattended. Faced with this apathy from the Bank, the petitioner has approached this Court.

5. Mr. S. Dutta, learned Senior Counsel, assisted by Mr. S. Dutta, learned counsel appears for the bank. On earlier occasions, opportunities were granted to the learned counsel for obtaining the required instructions in the matter. Mr. Dutta, learned senior counsel however, very fairly submits that in spite of communications addressed to the Bank seeking instructions, no instructions are forthcoming.

6. Since from the record, it is seen that sufficient opportunities in the past were given to the learned counsel appearing for the Bank to obtain required instructions and it is submitted that no instructions are forthcoming, this Court is of the view that considering the limited prayer made in the writ petition, the writ petition need not be kept pending for want of instructions and accordingly, this Court proposes to dispose of the writ petition in the presence of both the counsels.

7. The short question, which arises in this writ petition is whether the stagnation increment for the month of July, 2001 could have been withheld from the petitioner when punishment pursuant to the disciplinary proceedings was imposed only with effect from 13.07.2001. There is no dispute at the bar that the stagnation increments are payable on the first of every month for the period that the employee is entitled to.

8. Under such circumstances, the stagnation increment for July, 2001 will fall on 01.07.2001. The punishment for "Lowering down of Basic Pay by two stages" was imposed by the disciplinary authority vide the order dated 13.07.2001. Consequently, it is with effect from 13.07.2001 that the punishment has been imposed on the petitioner. The Bank Authorities, however, has not paid the stagnation increment to the petitioner for the month of July, 2001 by reasons best known to them. As per the calculations made by the Bank authorities and enclosed to the writ petition, it is seen that the punishment was shown to be inflicted on 18.06.2001 and therefore, the stagnation increment for the month of July, 2001 was not given to the petitioner. However, from the records, it is seen that the punishment was imposed by order dated 13.07.2001.

9. A careful perusal of this order does not reflect that the punishment although imposed on 13.07.2001 will be with effect from 18.06.2001. This punishment imposed by the Bank authorities is extracted below:-

*"UNITED BANK OF INDIA
H.O.16 Old Court House Street, Kolkata-700001
Tel: 545967, 546267
543137, 522939
548095*

*Fax: 542419
No. ZO/IR/DG-9A/429/2001*

*Zonal Office
Guwahati Zone
G.S.Road, Ulubari*

Guwahati-781007

Dt.13.07.2001

*Sri Debashish Das (SPF No. 10917)
Computer Operator,
United Bank of India,
A.T.Road, Branch.*

Dear Sir,

Re: Proposed punishment in the matter of Disciplinary Proceedings against you.

Further to my letter bearing No. ZO/IR/DG-9A/69/2001 dated 18.06.2001 and after going through your written representation dated 12.07.2001 with regard to proposed punishment. I have carefully considered your submissions in the background of enquiry proceedings, connected papers and documents and enquiry report along with your past records. On due consideration, your submissions have not been found tenable/justifiable.

In view of the fact and circumstances of the case and the gravity of proved misconduct I find that the proposed punishment of lowering down of basic pay by two stages has been just and proper and it cannot be reduced.

Accordingly, I confirm the proposed punishment and finally the following punishment is inflicted upon you with immediate effect.

“Lowering down of Basic Pay by two stages.”

10. Having heard the learned counsels for the parties and upon due perusal of the pleadings on record, it is seen that the petitioner has been able to make out a case for release of stagnation increment for the month of July, 2001. As discussed, there is no dispute at the bar expressed that the punishment imposed by order dated 13.07.2001 is with the effect from 13.07.2001 and not antedated.

11. Under such circumstances, the Bank authorities would not have withheld

the stagnation increment due to the petitioner for the month of July, 2001.

12. In view of the discussions above, this writ petition stands allowed.

13. The respondent authorities will calculate the stagnation increment payable to the petitioner for the month of July, 2001 and release all further consequential benefits that may be due to the petitioner.

14. With the above observation, the writ petition stands allowed and disposed of. This exercise is directed to be completed within a period of 90 (ninety) days from the date of receipt of a certified copy of this order to be submitted to the Bank.

15. Writ petition accordingly stands allowed and disposed of.

JUDGE

Comparing Assistant