

GAHC010010622015



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

Case No. : WP(C)/1610/2015

SMTI GAURI BAROOAH
W/O SRI BINOD CHANDRA BAROOAH R/O LANE NO. 4, SECTION -2,
BORDOLOI NAGAR, P.O. and P.S. TINSUKIA DIST. TINSUKIA, ASSAM, PIN -
786125.

VERSUS

THE CENTRAL BANK OF INDIA and 6 ORS,
REP. BY ITS CHAIRMAN AND MANAGING DIRECTOR, CHANDERMUKH,
NARIMAN POINT, MUMBAI-21, MAHARASTRA.

2:THE GENERAL MANAGER

HUMAN RESOURCE DEVELOPMENT
CENTRAL BANK OF INDIA
CHANDERMUKHI
NARIMAN POINT
MUMBAI-21
MAHARASTRA.

3:THE ZONAL MANAGER

CENTRAL BANK OF INDIA
ZONAL OFFICE
CENTRAL BANK OF INDIA BUILDING GS ROAD
BHANGAGARH
GUWAHATI-5
ASSAM.

4:THE REGIONAL MANAGER

CENTRAL BANK OF INDIA

G.S. ROAD
BHANGAGARH
GUWAHATI-5
ASSAM

5:THE CHIEF MANAGER

CENTRAL BANK OF INDIA-8
CENTRAL BANK OF INDIA
BUILDING
G.S.ROAD
BHANGAGARH
GUWAHATI-5
ASSAM.

6:THE REGIONAL MANAGER

CENTRAL BANK OF INDIA
UPPER ASSAM REGIONAL OFFICE
NEHRU PARK
P.O. and P.S. JORHAT
DIST. JORHAT
ASSAM
PIN - 785001.

7:THE BRANCH MANAGER

CENTRAL BANK OF INDIA
TINSUKIA
BRANCH
TINSUKIA
ASSAM
PIN - 786125.

8:THE BANKING OMBUDSMAN

REP. BHEREIN BY ITS SECRETARY RESERVE BANK OF INDIA BUILDING
3RD FLOOR STATION ROAD
PANBAZAR
GUWAHATI-1.

9:THE SECRETARY

BANKING OMBUDSMAN RESERVE BANK OF INDIA
BUILDING 3RD FLOOR STATION ROAD
PANBAZAR
GUWAHATI-1

Advocate for the Petitioner : MR.U K DEKA

Advocate for the Respondent : MR.M PHUKAN

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 24-01-2024

The instant writ petition has been filed by the petitioner seeking a direction upon the respondent bank authorities to provide Bank Statement of her Saving Bank Account No. 7054 of Central Bank of India, Tinsukia Branch, Tinsukia, and also for a direction upon the respondent bank authorities to return the amount of Rs. 1,69,000.00, with interest, that has disappeared from her said savings bank account maintained in the Central Bank of India, Tinsukia Branch.

2. It is the case of the petitioner that in the year 1995 the petitioner had deposited Rs. 1,69,000.00, in total, in her Saving Bank Account No. 7054 maintained in the Central Bank of India, Tinsukia Branch. However, sometime in the year 2009, when the petitioner visited the Branch to update her Pass book, it was found that the amount which was lying in the petitioner's bank account was only Rs. 4.00. Under such circumstances, the petitioner had submitted an application three years thereafter to the Branch Manager, Central Bank of India, Tinsukia, asking him to provide her the bank statement of her said savings bank account No. 7054. However, said bank statement was not provided to her. Thereupon the petitioner lodged a complaint on 25.01.2013 before the Banking Ombudsman at Guwahati as regards the disappearance of the amount of Rs. 1,69,000.00 from her said bank account. The Banking Ombudsman, vide order dated 09.04.2013, however, closed the complaint of the petitioner holding *inter alia* that the petitioner's case pertained to the period for which preservation period was over and that there was no deficiency on the part of the bank in providing services. It is under such circumstances the instant writ petition

has been filed by the petitioner seeking the relief mentioned above.

3. The record reveals that an affidavit-in-opposition was filed by respondent Nos. 1 to 7. It was mentioned in the said affidavit-in-opposition that the petitioner had opened her bank account in the year 1995 and a 'manual pass book', as was prevailing at that point of time, was issued to her on 16.03.1995. Thereafter, the Tinsukia Branch of the Central Bank of India was migrated as TBA (Total Branch Automation) with effect from 11.12.2002 and thereby manual system of maintaining the records had been dispensed with and all customers of the Branch were issued computerized pass book with 10 digit account number. The bank account number of the petitioner, upon being computerized, became 1701896252 in place of 7054. It was further mentioned that the petitioner had withdrawn money from her bank account leaving a balance of Rs. 153/- as on 24.07.2003. However, as regards the transactions made prior to July 2003, during which period transactions were recorded manually in the ledger, the bank has no record pertaining to that period to provide the exact dates of transactions since the ledgers of that period have been disposed of by the bank as per bank's "Manual of Instruction on General Administration". It was further denied that on 31.01.2009 an amount of Rs. 1,69,000.00 was in the bank account of the petitioner. It was mentioned that as on 31.01.2009, an amount of Rs. 4/- was available in the account of the petitioner.

4. This Court has perused the Bank Statement of the petitioner's account, which is annexed to the affidavit-in-opposition as Annexure-1, wherein the transactions made from 24.07.2003 till 31.12.2009 have been recorded showing the opening balance amount as Rs. 153/- as on 24.07.2003 and the ending balance amount available as Rs. 4/- as on 31.12.2009.

5. This Court had heard this matter on earlier occasion and had enquired with the learned counsel for the petitioner as to whether the petitioner had, at any point of time, filed an FIR as regards disappearance of Rs. 1,69,000.00. Today, when the

matter was taken up for consideration, the learned counsel appearing on behalf of the petitioner submitted that no FIR was filed. However, he has produced the original bank pass book.

6. From a perusal of the materials on record it reveals that the question whether the petitioner had withdrawn any amount prior to 24.07.2003 from her bank account cannot be decided by this Court. This Court cannot also be unmindful of the fact that prior to 11.12.2002 the respondent Central Bank of India had maintained their records in manual mode and, thereupon, maintenance of the records in the said Branch of the Central Bank of India had been computerized. This Court has also perused Annexure-1 to the affidavit-in-opposition, which is the Statement of Account pertaining to the petitioner's bank account, which shows that an amount of Rs. 153/- was the opening balance as on 24.07.2003. This Court has also perused the "Manual of Instruction on General Administration" annexed to the affidavit-in-opposition, which stipulates preservation of bank records and it has been specifically mentioned therein that Ledgers and Registers are required to be preserved for eight years. Under such circumstances, the Ledger pertaining to the date on which the petitioner had lodged the complaint even before the Banking Ombudsman is not available.

7. Taking into account the above, on account of the delay and laches on the part of the petitioner, coupled with the negligent manner in which the petitioner had taken steps in the matter, this Court is not inclined to issue any writ in the instant proceeding, for which the instant writ petition stands dismissed.

JUDGE

Comparing Assistant