

GAHC010183392024



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

Case No. : I.A.(Civil)/2702/2024

MRINMOY DAS
S/O- LT CHINTA HARAN DAS, R/O- NEAR HDFC BANK CHARIALI, P.O.
DIGBOI, DIST- TINSUKIA- 786121, ASSAM, D.O.B. 03/07/1964, PH NO.
7002708317

VERSUS

THE ASSAM GRAMIN VIKASH BANK AND 4 ORS.
A JOINT UNDERTAKING OF THE GOVT. OF INDIA, GOVT. OF ASSAM AND
UNITED BANK OF INDIA, H.O. G.S.ROAD, BHANGAGARH, GHY-5, ASSAM,
REP. BY ITS CHAIRMAN

2:THE CHAIRMAN
ASSAM GRAMIN VIKASH BANK
H.O. G.S.ROAD
BHANGAGARH
GHY-5

3:THE GENERAL MANAGER AND DISCIPLINARY AUTHORITY
ASSAM GRAMIN VIKASH BANK
H.O. G.S.ROAD
BHANGAGARH
GHY-5

4:THE CHIEF MANAGER (VIGILANCE)
ASSAM GRAMIN VIKASH BANK
H.O. G.S.ROAD
BHANGAGARH
GHY-5

5:PRADIP KUMAR BORAH
SENIOR MANAGER AND ENQUIRY OFFICER

ASSAM GRAMIN VIKASH BANK
SIVASAGAR BRANCH
SIVASAGAR
ASSAM
PIN

Advocate for the Petitioner : MR. B D KONWAR SR. ADV., MR. R SALOI

Advocate for the Respondent : SC, A G V B,

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 21-11-2024

Heard Mr. B.D. Konwar, learned Sr. counsel assisted by Mr. H. Agarwal, learned counsel for the applicant/ writ petitioner. Also heard Mr. A. Ganguly, learned counsel appearing for the opposite party/ respondent Bank.

2. The applicant/ writ petitioner is an ex-employee of Assam Gramin Vikash Bank. While in service, a departmental enquiry was initiated against him vide show-cause notice dated 05-11-2015. In the said departmental proceeding it was found that the charge brought against the applicant was proved. As such, by the order dated 28-02-2019, penalty of "reduction of basic pay by 10 (ten) stages with cumulative effect" was imposed upon him.

3. Aggrieved by the order dated 28-02-2019, the petitioner had earlier approached this Court by filing W.P.(C) No. 2043/2019, which was disposed of by the learned Single Judge by order dated 29-03-2019, granting leave to the applicant to prefer an appeal before the authorities against the order of penalty with a further direction not to give

effect to the order of penalty till the appeal is disposed of. Accordingly, the applicant had preferred an appeal, which was, however, rejected by the appellate authority by the order dated 20-04-2019. Aggrieved thereby, the petitioner has once again approached this Court by filing W.P.(C) No. 2817/2019, which is pending disposal before this Court. During the pendency of the writ petition, the applicant/ writ petitioner has retired from service on attaining the age of superannuation w.e.f. 31-07-2024. However, apparently due to the pendency of the writ petition being W.P.(C) No. 2817/2019, by issuing letter dated 31-07-2024, the retirement benefits of the applicant have been withheld by the Bank by invoking regulation 45 of AGVB Regulations, 2010. The applicant has, therefore, approached this Court by filing I.A.(C) No. 2702/2024 arising out of W.P.(C) No. 2817/2019 *inter-alia* praying for setting aside the letter dated 31-07-2024 and also for issuing a direction upon the Bank to release his retireal dues.

4. Mr. Konwar, learned Sr. counsel for the applicant submits that his client is ready and willing to give an undertaking for refund the amount found due and recoverable by the Bank in the event the writ petition is dismissed. Therefore, present is a fit case where the I.A. deserves to be allowed, as otherwise the applicant would be subjected to serious prejudice.

5. Responding to the above, Mr. Ganguly, learned counsel for the opposite party submits that the Bank is willing to release 50% of the retireal dues of the applicant after adjusting the loan liabilities, if any, of the applicant. However, the excess amount of retireal dues cannot be released at this stage as there are computational difficulties in that regard.

6. I have considered the submission made by the learned counsel for both the sides and have also gone through the materials available on record. There can be no doubt or dispute about the fact that although, the writ petition, in the form of W.P.(C) No. 2817/2019, is pending disposal before this Court where the order of penalty dated 28-02-2019 is under challenge, yet, the penalty is not of dismissal or removal from service. Therefore, even if the petitioner fails in the writ petition, even then, he would be entitled to receive his retireal dues, which would be computed after taking into account the order of penalty dated 28-02-2019. In that view of the matter, there cannot be a justifiable ground for the Bank to withhold the entire retireal dues of the petitioner on the basis of an order of penalty dated 28-02-2019, merely because a challenge to the said order is pending before this Court. Such being the position, this Court is of the opinion that the applicant has made out a strong *prima-facie* case for issuance of a direction on that behalf upon the respondent Bank. The respondent/ Bank has, however, not been able to deny the above assertion made by the applicant.

7. For the reasons stated above, this I.A. is being disposed of with a direction upon the respondent/ Bank to release the retirement dues of the applicant, as applicable on the date of his superannuation, on the basis of the order of penalty dated 28-02-2019 after adjusting loan component, if any, availed by him from the respondent Bank. The amount found due and payable shall be release within a period of 60 (sixty) days from the date of receipt of a certified copy of this order, failing which, the amount would carry interest @ 9% per annum from the date of this order till realisation.

Insofar as the claim of the applicant on the balance amount, if any, is concerned,

the same shall be subject to the outcome of the W.P.(C) No. 2817/2019.

With the above observation, this I.A. stands disposed of.

JUDGE

GS

Comparing Assistant