

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 15921 of 2011

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Ram Chandra Prasad Son of Late Dev Raj Sah Resident of Village- Sakala Bazar,
P.S.- Sakala Bazar, District- Rohtas.

.... Petitioner/s

Versus

1. The Madhya Bihar Gramin Bank, H.O.- Meena Plaza, Near Patna Museum, Patna.
2. The Chairman, Madhya Bihar Gramin Bank, H.O.- Meena Plaza, Near Patna Museum, Patna.
3. General Manager-cum-Public Information Officer Madhya Bihar Gramin Bank, H.O.- Meena Plaza, Near Patna Museum, Patna.
4. Senior Manager (Personnel), Madhya Bihar Gramin Bank, H.O.- Meena Plaza, Near Patna Museum, Patna.
5. Regional Officer, Madhya Bihar Gramin Bank, Regional Office- Chandel Market Chandrika Bhawan, Aurangabad.
6. The Branch Manager, Madhya Bihar Gramin Bank, Daud Nagar, Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar No. 1, Advocate.
For the Respondent-Bank : Mr. Sharad Kumar Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 04-09-2015

Heard learned counsel for the parties.

Though the writ petition has been filed for various reliefs relating to post retiral benefits but learned counsel for the petitioner submits that he is restricting it with regard to the recovery made of Rs. 2,04,102/- from his gratuity and leave encashment.

Learned counsel for the petitioner submits that he was posted as Assistant Manager in the Aurangabad Branch of the respondent erstwhile Madhya Bihar Gramin Bank in the year 1990 where he had foiled a dacoity attempt and thus under the relevant policy of the Bank, by way of incentive, he was granted



Rs. 50,000/- cash prize, three additional yearly increments with effect from 31.10.1990 and also his entire expense relating to his treatment had been reimbursed. It is submitted that the petitioner continued in service and retired on 31.07.2010. While calculating his post retiral entitlements, the respondent Bank came up with the objection that the petitioner had received excess payment on account of wrong interpretation of the policy relating to grant of additional yearly increments with effect from 31.10.1990. Learned counsel submits that the petitioner was transferred to various branches and worked under various superior officers who were responsible for fixing and payment of his salary and other emoluments and according to the scale and amount fixed by them, the petitioner has been receiving the same during his service period. It is submitted that the petitioner had neither furnished any factually incorrect information nor played fraud nor there was any misrepresentation and thus whatever amount he was getting, was under bona fide impression. Learned counsel draws the attention of the Court to a copy of letter dated 29.11.2003 of the General Manager of the Bank in which the break-up of the increments by way of personal pay has been disclosed and in that the amount the petitioner was actually getting has been mentioned that is, for certain period Rs. 360/-, thereafter Rs. 690/- followed by Rs. 1,020/- and the date for next increment was shown as 01.01.2005. Learned counsel lays emphasis on the last portion of the letter which has been written to the Manager of the Bank, where the petitioner was working,



which states that the petitioner may be paid accordingly and that with regard to the aforesaid, the approval of the Chairman has also been obtained. Learned counsel submits that the petitioner having risked his life during dacoity and the scheme being a beneficiary and motivating one, the respondent Bank should not behave in the manner it has and that too after retirement of the petitioner. Learned counsel has relied on a decision of the Hon'ble Supreme Court in the case of **State of Punjab v. Rafiq Masih** reported in **(2015)4 SCC 334**, in which it has been held that recovery cannot be made in certain illustrative cases and the petitioner's case is also covered by the same. Specifically, it is stated that the situation enumerated in paragraph no. 18(ii) is relevant where recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery have been held not amenable to recovery by the employer.

Learned counsel for the respondent Bank on the other hand opposes the application and submits that due to wrong interpretation given of the scheme under which three increments have been granted to the petitioner due to being injured in a dacoity in the bank, the excess amount is amenable to recovery as it is not by way of punishment but to correct a mistake. For such proposition learned counsel has relied upon a decision of the Hon'ble Supreme Court in the case of **Chandi Prasad Uniyal v. State of Uttarakhand** reported in **(2012) 8 SCC 417**.

Upon hearing learned counsel for the parties, without going into the interpretation of the policy, this Court is of the opinion that the scheme being for a very salutary purpose to motivate Bank personnel and the general public at large to prevent robbery and dacoity in Bank, the petitioner having been granted the said benefit and the same having continued to be paid without the petitioner having a role in the same and also approved by the authorities of the Bank at the highest level, ought not to be recovered from him moreso, as the same has been done after his retirement. Thus, the Court finds that the decision relied upon by learned counsel for the petitioner in the case of **State of Punjab v. Rafiq Masih** (supra) covers his case on the point of recovery. It would be relevant to note here that in the said decision of the Hon'ble Supreme Court, decision rendered earlier by the Hon'ble Supreme Court in the case of **Chandi Prasad Uniyal v. State of Uttarakhand** (supra), on which learned counsel for the Bank has relied, has been noted.

Accordingly, the writ petition stands disposed off with a direction to the respondent no. 3 to pay the deducted amount of Rs. 2,04,102/- to the petitioner with interest at the rate which it pays on its savings bank account within four weeks from the date of production of a copy of this order before him.

(Ahsanuddin Amanullah, J.)

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