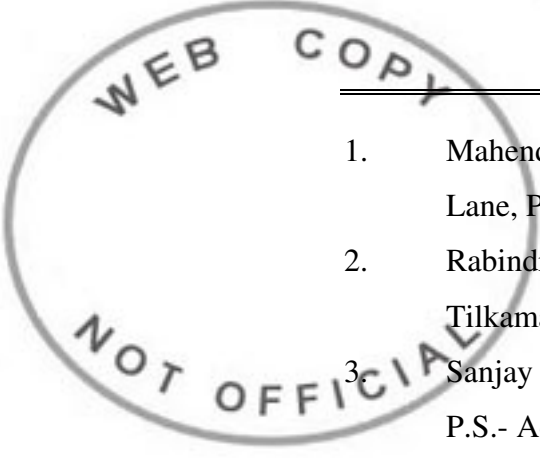


IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.788 of 2007
IN
Civil Writ Jurisdiction Case No. 9040 of 2006

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1. Mahendra Badal son of Satish Chandra Rai, resident of Mohalla- Kalighati Lane, P.O.- Adampur, P.S.- Adampur, District- Bhagalpur
 2. Rabindra Singh Jain, son of Late Raj Singh Jain, Lalbagh, P.S. - Tilkamanjhi, District- Bhagalpur.
 3. Sanjay Kumar Paney, son of Sri Nityanand Pandey, C.C. Mukherjee Road, P.S.- Adampur, Bhagalpur
 4. Mr. Rajiv Ranjan, son of Late Bijay Shanker Prasad, At, P.O. & P.S.- Bhikhanpur, District- Bhagalpur
 5. Shailendra Kumar, son of Late Jangi Singh Lalbagh, P.S.- Tilkamanjhi, District- Bhagalpur
 6. Rajesh Kumar Verma, son of Late Surendra Kumar Verma, Purani Sarai, P.S.- Nath Nagar, District- Bhagalpur
 7. Rana Ranbir Singh, son of Late Rana Pratap Singh, Hanuman nagar, P.S.- Adampur, District- Bahgalpur
 8. Rakesh Kumar son of Sri Janardan Prasad Singh, Hanumannagar, P.S. Adampur, District- Bhagalpur
 9. Lalit Narayan Mishra, son of Late Tej Narayan Mishra, Hanuman Nagar, P.S.- Adampur, District- Bhagalpur

.... Appellant/s

Versus

1. The Union of India through Ministry of Finance, Department of Economics Affairs (Banking Division) through Under Secretary, Govt. of India, New Delhi
2. Ministry of Finance (Banking Division) Government of India, through it's Secretary, Jeevan Deep Building, Sansad Marg, New Delhi
3. National Bank for Agriculture and Rural Development through its Chief General Manger, Central Office, Mumbai
4. UCO Bank through its General Maanger (Personnel) 10, Biplobi Trailokya Maharaj Surai, Kolkata
5. The General Manager, Planning and Development, UCO Bank, Head Office

12 Old Court House Street, Kolkata 700 001

6. Bihar Kshetriya Gramin Bank through its Chairman, Bhagat Singh Chowk, Munger
7. Board of Directors, Bihar Kshetriya Gramin Bank through its Chairman, Bhagat Singh Chowk, Munger
8. Chairman, Bihar Kshetriya Gramin Bank, Bhagat Singh Chowk, Munger
9. General Manager, Bihar Kshetriya Gramin Bank, Bhagat Singh Chowk, Munger

.... Respondent/s

Appearance :

For the Appellants	:	Sri U.P. Singh, Sr. Advocate
For Respondents 6 to 9	:	Sri Abhinav Srivastava, Adv.
For the Respondents 4 & 5	:	Sri Ranjeet Kumar Pandey, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

C.A.V. JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 08-05-2015

This appeal is preferred against the order dated 03.08.2007 passed by the learned single Judge in CWJC No. 9040 of 2006. The writ petitioners are the appellants.

The appellants joined the service of the Bhagalpur Banka Kshetriya Gramin Bank. With the merger of the said Bank with Munger Kshetriya Gramin Bank and Begusarai Kshetriya Gramin Bank, the Bihar Kshetriya Gramin Bank, the 6th respondent herein, was

brought into existence. The UCO Bank, the 4th respondent, sponsored the 6th respondent.

The service conditions of the employees of the Kshetriya Gramin Banks, which are established under the Regional Rural Bank Act, 1976, were stipulated by the Central Government as well as the Boards of Management of the respective Banks, from time to time. One of the conditions of merger was that the service conditions of the employees of a rural bank, formed after merger shall not be disadvantageous compared to the conditions in the banks that were merged.

Compared to the other employees of the 6th respondent, the employees of erstwhile Bhagalpur Banka Kshetriya Gramin Bank i.e. the writ petitioners/ appellants were drawing higher emoluments. That was on basis that the Board of Directors of the said bank extended the benefit of higher emoluments to them and that the same continued after merger. Erstwhile employees of the two other Kshetriya Gramin Banks, who are working in the 6th respondent, made representations for removing the anomaly in the emoluments of the employees of the same rank. This in

turn, warranted the examination of the matter in detail.

The respondents formed an opinion that the extension of benefits to the appellants herein by the Board of Directors of the erstwhile Bhagalpur Banka Kshetriya Gramin Bank was not in accordance with law. Therefore, the additional emoluments that were being paid to the appellants were stopped and recovery was ordered through the communication dated 03.07.2006, filed as Annexure-10 in the writ petition. The appellants challenged the same by filing the writ petition. They pleaded that the action of the respondents in issuing Annexure-10 was without any basis and contrary to the guidelines issued by the Central Government from time to time.

The writ petition was opposed stating *inter alia* that the Board of Directors of the Bhagalpur Banka Kshetriya Gramin Bank acted contrary to law and without taking the sponsoring bank into confidence; and accordingly the anomaly was rectified.

Learned single Judge dismissed the writ petition by order dated 03.08.2007. Hence, the Appeal.

Heard Shri U.P. Singh, learned Senior



Advocate appearing for the appellants, Sri Abhinav Shrivastava, learned counsel for the respondents 6 to 9, and Sri Ranjit Kumar Pandey, learned counsel appearing for the respondents 4 & 5.

The only controversy in the writ petition as well as in the appeal is as to whether the appellants were entitled to the benefits that were extended to them by the Bhagalpur Banka Kshetriya Gramin Bank; even after formation of the 6th respondent.

Learned counsel for the appellants has drawn our attention to the various rules or guidelines that have been framed in this behalf. At the time of merger of the three Kshetriya Gramin Banks, the guidelines issued by the Government of India dated 11.04.2001 filed as Annexure-1, 25.04.2001 filed as Annexure-2, and 17.04.2002 filed as Annexure-7 were in force. The purport thereof is that the conditions of service of the employees of Kshetriya Gramin Banks shall not be disadvantageous to them, after merger. What, however, becomes relevant is as to whether the extension of benefits to the employees of erstwhile Gramin Bank was in accordance with law.



Kshetriya Gramin Banks are established under a Central enactment. Though the affairs of such Banks are administered by the respective Boards of Management, the sponsoring Banks are assigned important role in this behalf. It is only with the approval and consent of the sponsoring Bank that any decision, including the one for fixing or reviewing of pay scales or extension of allowance, of the employees of the Kshetriya Banks, are taken.

The appellants were extended the benefit of additional allowances by the Bhagalpur Banka Kshetriya Gramin Bank vide orders dated 14.09.2002 and 26.09.2002. A perusal of the same discloses that they were sanctioned only by the Chairman, and no reference is made to the participation of the sponsoring Bank in any manner. As observed in the earlier paragraphs, the legality or otherwise of the extension of certain benefits to the appellants by their previous employer was examined in detail, by the 6th respondents and other concerned agencies. It came to light that the sponsoring Bank also took exception to the decision taken by the Bhagalpur Banka Kshetriya Gramin Bank



and the conferment of the benefit was almost a hasty decision taken by the Management, almost in anticipation of merger. Therefore, the General Manager of the 6th respondent issued orders dated 03.07.2006 (Annexure-10) directing stoppage of certain allowances to the appellants so that the anomaly in pay structure of its employees is removed. We do not find any basis to interfere with the same and we agree with the conclusions arrived at by the learned single Judge in this behalf. However, we find that the directions issued by the 6th respondent for recovery of the amounts already paid to the petitioners cannot be sustained in law. The reason is that the payment of such amount was not on account of any misrepresentation on the part of the appellants. The erstwhile employer fixed the emoluments of the appellants and paid them. It is a different matter that the same was found to be not correct, at later point of time. Recovery can be effected only when the corresponding amount was paid by the employer on account of the misrepresentation on the part of the concerned employee. We, therefore, set aside that part of Annexure-10 which provide for recovery.

Hence, the appeal is partly allowed confirming the order passed in the writ petition, insofar as it upheld Annexure-10 for stoppage of certain emoluments to the appellants but setting aside Annexure-10, to the extent it directed recovery of the amount, already paid to the appellants.

(L. Narasimha Reddy,CJ)

(Vikash Jain, J)

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