

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2078 of 2014

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Ramayan Chaudhary Son Of Late Ratan Chaudhary Resident Of Village:
Kushdhar, P.O.: Bishunpur, P.S. Baghaila, District: Rohtas

.... Petitioner/s

Versus

1. The Union Of India Through Principal Controller Of Defence Accounts (P) (For G-Ii Section) Draupad: Ghat, Allahabad
2. The Principal Controller Of Defence Accounts (P) (For G.I Section) Draupadi Ghat, Allahabad
3. The Commodore, Bureau Of Sailors, Cheetal Camp, Mankhurd, Mumbai- 88
4. Accounts Officer (Pensions), The Principal Controller Of Defence Accounts (Pensions), Draupadighat, Allahabad- 211014
5. Commander, Sr. Staff Officer (Pension) For Commodore, Bureau Of Sailors Cheetal Camp, Mankhurd, Mumbai- 400088
6. The Branch Manager, State Bank Of India, Nokha Branch, District: Rohtas (Bihar)
7. The Manager, State Bank Of India, Main Branch, Rohtas (Bihar)
8. The Manager, State Bank Of India, Main Branch, Anta Ghat, Patna (Bihar)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Tiwari, Adv
For the U.O.I. : Mr. Rajesh Kumar Verma, C.G.C
For the S.B.I. : Mr. Kaushlendra Kumar Sinha, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

8 23-02-2015 Heard learned counsel for the parties as with regard to
the following relief prayed in this writ application:-

- "1(i) *For commanding and directing the respondents to pay the difference of arrear of pension and other benefits to the petitioner with interest with effect from 1984 onwards.*
- (ii) *For commanding and directing the respondents no.6 to pay statutory interest upon the aforesaid amount which has not been given to the petitioner deliberately despite the repeated direction of respondent no.2."*



Let it be noted that this writ application was filed on 23.1.2014 by a retired personnel of Indian Navy with regard to arrear of pension and other consequential benefits with effect from 1984 onwards but, when no counter affidavit was filed by the main contesting respondent, namely, Officials of the State Bank of India even in a period of almost one year, an order was passed on 5.1.2015 relevant portion whereof reads as follows:-

"In the writ petition, the petitioner has prayed for directing the respondents to pay difference of arrears of pension besides other reliefs. A plea has been taken that office of the Principal Controller of Defence Accounts (Pension) has already made communication to the State Bank of India, Nokha , whereby arrears of pension has been authorized and the Bank has been asked to make payment to the pensioner.

As prayed, four weeks time is granted to learned counsel for the State Bank of India to get instruction and file counter affidavit with a direction to credit all the admitted dues to the account of the pensioner before filing counter affidavit, if the same has not been credited."

The order of this Court dated 13.2.2015 would bear it out that the aforesaid direction of this Court in the order dated 5.1.2015 was not complied and a vague counter affidavit was filed as a result whereof the personal appearance of the Branch Manager of the State Bank of India, Nokha Branch was directed on 13.2.2015 on which day this Court had held as follows:-

"This Court, in the last order dated 05.01.2015, had issued following directions to the authorities of the State Bank

of India

"As prayed, four weeks time is granted to learned counsel for the State Bank of India to get instruction and file counter affidavit with a direction to credit all the admitted dues to the account of the pensioner before filing counter affidavit, if the same has not been credit."

The counter affidavit, which has been filed by the authorities of the State Bank of India, however, does not say a word as with regard to compliance of the aforementioned direction inasmuch as nothing has been said as to whether the admitted dues of the petitioner has been credited in his account. In fact all that has been said in paragraph 10 of the counter affidavit reads as follows:-

"10. That, since, in the meantime, the petitioner has made several representations to the Bank and also some judicial orders have also been passed by this Hon'ble Court, this deponent after making calculation, has been making sincere efforts to pay the amount to the petitioner as per the authorization letter dated 28.02.2013 as contained inAnnexure-7".

It, thus, becomes clear that the Branch Manager of State Bank of India, Nokha Branch in the district of Rohtas in particular has not carried out the direction of this Court as yet inasmuch as the amount in question has still not been credited in the account of the petitioner.

In that view of the matter, this Court would direct the Branch Manager of State Bank of India, Nokha Branch to appear in person in the Court on Monday to explain as to why he should not be held guilty for committing contempt of this Court and why he should not be saddled with exemplary punishment."



The aforesaid order dated 13.2.2015 in fact was also not compiled and to top it all the Branch Manager of the State Bank of India, Nokha Branch did not appear whereafter an order was passed on 16.2.2015 for issuance of bailable warrant of arrest against Shrawan Kumar Sinha, Branch Manager, State Bank of India, Nokha Branch for his production by the Superintendent of Police, Rohtas before this Court on 23.2.2015.

Today, Mr. Shrawan Kumar Sinha, Branch Manager of the State Bank of India, Nokha Branch has appeared in person and has filed an application to recall the warrant of arrest issued against him wherein he has also given certain explanations, relevant portion whereof reads as follows:-

- "2. That as per the direction made by this Hon'ble Court, the deponent had come to Patna for on 12th February 2015 for swearing and affirming the Counter Affidavit in which this deponent specifically stated that due to unavailability of some relevant papers, he has not been able to pay the petitioner's dues as per the authorization letters but, however, after calculation he has been making sincere efforts to pay the amount to the petitioner as per the authority letter dated 28th February 2013 as contained in Annexure-7 of the writ petition.
3. That, however when the matter was taken up for hearing on 13th February 2015, the matter could not be attended by the Bank's counsel Shri K.K. Sinha who had to leave Patna on the same day by the morning flight for some of his urgent necessary work. It is stated that

due to his absence, there was some communication gap in between him and the Bank's counsel that, apart from the calculation of the petitioner and to credit in his pension account, he had also to make physical appearance before his Hon'ble Court on 16th February 2015.

4. *That it is stated that on 14th February 2015, a Lok Adalat was being held at Sasaram in which he had to attend since 10.30 AM to 4.30 A.M. and due to this reason, he was away from Nokha Branch throughout the day.*
5. *That, any way on 16th February he made calculation for the Petitioner's amount on basis of papers enclosed with the writ petition and on this calculation he had made credit of Rs. 50,000/= in the petitioner's account on 17th February 2015. However, the deponent undertakes to make some more credit in the petitioner's account of the petitioner if he would sit along with the deponent across the table and would be pleased to point out as to what more amount are yet to be credited in his pension.*
6. *That this deponent seeks unconditional apology from this Hon'ble Court for the non-compliance of the order passed by this Hon'ble Court which, in fact, happened due to the reasons stated above."*

Mr. Sinha appearing in person has also explained that a sum of Rs. 50,000/- has already been credited in the account of the petitioner and has also assured that the rest of the amount legally admissible and payable to the petitioner towards his arrear and current pension and other allowance as per the authorization made by the competent authority of the



Government of India and the Indian Navy shall be paid to him within a period of one week from today. He has also submitted that if the petitioner would extend cooperation by producing the relevant orders of the Indian Navy, which is missing from the Bank, it will become easy for him to make all the admissible payment to the petitioner within the aforesaid period of one week.

In reply, learned counsel for the petitioner submits that the Branch Manager of the State Bank of India, Nokha Branch is making all sort of excuses and a sum of Rs. 50,000/- has been credited to the account of the petitioner only after a coercive order was passed by this Court seeking his presence in this Court by way of issuance of warrant of arrest. He has further submitted that even in the show-cause reply filed by the Branch Manager, there is no calculation to justify the payment of Rs. 50,000/-, inasmuch as, the petitioner will be entitled for much more amount as the dues of the pension and other admissible amount have remained unpaid from 1984 onwards. Learned counsel for the petitioner has also submitted that the petitioner is always ready to explain and has also rendered necessary assistance to the authorities of the Bank but, the difficulty has been that whenever the petitioner had gone to the Bank to explain his case,

he was not even given any audience by any of the officials of the Bank including the Branch Manager of the State Bank of India, Nokha Branch.

Having regard to the aforesaid stand and there being actually no dispute remaining for being decided by this Court, it is hereby directed that the petitioner should go to the State Bank of India, Nokha Branch on 25.2.2015 i.e. day after tomorrow and give necessary assistance/documents which may be found to be necessary by the Branch Manager of the State Bank of India, Nokha Branch to settle the claim of the petitioner concerning payment of his arrears and current pension.

This Court, however, would direct that the Branch Manager of the State Bank of India, Nokha Branch in any event must settle the claim of the petitioner by next Monday i.e. on or before 2.3.2015 as also must furnish the calculation of the amount to which the petitioner is found entitled by way of documents towards his arrear and current pension.

It, however, goes without saying that if the ultimate amount found payable to the petitioner on the head of arrear and current pension and other allowances is found to be less than a sum of Rs. 50,000/- already credited in the account of the petitioner, the same shall be adjusted from the petitioner against

the payment of pension to be made in future

Thus, this writ application is disposed of with a direction to the Branch Manager, State Bank of India, Nokha Branch, present in this Court that whatever amount is found legally payable and admissible to the petitioner towards his arrear and current pension as also any other allowances in terms of the order of the Indian Navy, must be paid to the petitioner within a period of one week from today i.e. on or before 2.3.2015 and a calculation-sheet regarding such payment be also made available to the petitioner for his verification and satisfaction that the admissible amount of arrear and current pension as also any other allowance has been paid to him.

With the aforementioned observation and direction, this application is disposed of.

The personal appearance of Mr. Shrawan Kumar Sinha, Branch Manager of State Bank of India, Nokha Branch, Rohtas is hereby dispensed with and the warrant of arrest issued against him is directed to be recalled.

(Mihir Kumar Jha, J)

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