

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5549 of 2015

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Binita Thakur, Wife of Late Shashi Bhushan Takhur, resident of Rahul Nagar, Road No. 2, Sanjay Cinema Road, Brahmpura, P.S.- Brahmpura, District- Muzaffarpur. Petitioner

Versus

1. The Chairman Cum Managing Director, Punjab National Bank, Head Office, Bikaji Gama Place, New Delhi.
 2. The Deputy General Manager, Punjab National Bank, Circle Office, Muzaffarpur.
 3. The Chief Manager, Human Resources Department, Punjab National Bank, Circle Office, Muzaffarpur. Respondents
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Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa, Adv.

For the Respondent/s : Mr. Suresh Pd. Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL ORDER

2 25-06-2015 Heard learned counsel for the parties with regard to the following relief prayed in this writ application:

“(i) To set aside the letter dated 17.2.2015 by which the Chief Manager, Human Resources Department, Punjab National Bank, Circle Office, Muzaffarpur (hereinafter referred as ‘respondent no.3’) has communicated the decision of the respondent Bank to reject the pensionary claim/ family pension proposal of the petitioner.

(ii) To forthwith fix and secure immediate payment of pensionary claim of the petitioner alongwith all arrears and interest thereupon.

(iii) To forthwith disburse the superannuation benefits due under different heads including leave encashment, gratuity, provident fund, group insurance etc. with interest.”

Having regard to the fact that Late Shashi Bhushan

Thakur the husband of the widow an employee of Punjab National



Bank had been inflicted with a punishment of removal from service with superannuation benefit i.e. pension and/or provident fund and gratuity as would be due otherwise under the rule and regulations prevailing at the relevant time and without disqualification from future employment and the petitioner, the widow has moved this Court for a direction for payment of family pension to her this Court would find that the impugned order rejecting the claim of family pension of the petitioner on the ground of punishment of removal of service inflicted on her husband would be prima facie unsustainable, inasmuch as if a reference has been made to clause 22(i) of the Pension Regulations, 1995 for depriving the petitioner from getting family pension, the authorities of the Bank ought to have considered that the order of punishment of removal from service of the husband of the petitioner had itself contained a clear provision giving him full protection of getting all his superannuation benefits.

As a matter of fact the family pension being claimed by the petitioner is only the part of superannuation benefit because had the petitioner's husband been alive, he could have been, as per order of the Bank entitled for pension and/or provident fund and gratuity and therefore, if he has died after the order of punishment his widow the petitioner apparently cannot be deprived the benefit



of family pension by taking recourse to clause 22(i) of the Pension Regulations, 1995. In the opinion of this Court the order of punishment of simply and removal and an order of removal from service with the benefit of superannuation benefit including pension and/or gratuity as well as provident fund etc. are based on two different parameters. This Court infact in this regard would also find some force in the submission of the learned counsel for the petitioner who places reliance on a judgment of the Apex Court in the case of Bank of Baroda v. S.K.Kool (D) through LRS & anr., Civil Appeal No. 10956/2013, wherein this very aspect has been gone into for grant of family pension and other superannuation benefit.

This Court, therefore, instead of keeping this writ application pending would quash the impugned order and remit the matter back to the respondents for reconsideration of the case of the petitioner for grant of family pension and while doing so, the ratio of the judgment of the Apex Court in the case of S.K.Kool (supra) shall also be kept in mind by them. Thus, if the petitioner would file a representation for claiming family pension enclosing a copy of the aforementioned judgment of S.K.Kool (supra), a fresh decision supported by reasons by the competent authority with regard to grant of family pension and other

superannuation benefit shall be taken within a period of three months from the date of receipt of the aforesaid representation and also communicated to the petitioner.

With the aforementioned observation and direction, this application, is allowed only to the extent indicated above.

(Mihir Kumar Jha, J)

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