IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 21888 of 2011

==

Dipa Devi, Wife of Late Ram Nandan Mishra, Resident of Village + P.O. Panchanpur, Police Station Tekari, District Gaya, Presently Village Rohway, P.O. Bedouli, P.O. Imamganj, District Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Secretary cum Commissioner, Department of Finance, Old Secretariat, Patna.
3. The Special Secretary, Department of Finance, Old Secretariat, Patna.
4. The Under Secretary, Department of Finance, Old Secretariat, Patna.
5. The Under Secretary cum Director, (Press), Govt. of Bihar, Patna.
6. The Superintendent, Press and Forms, Gaya Jail Press, Gaya.
7. The Provident Fund Officer, Gaya.
8. The Treasury Officer, Gaya.
9. The Accountant General, Bihar, Patna.
10. The Senior Accounts Officer, Office of Accountant General, Bihar, Patna.
11. The In-Charge Principal, Girls High School Tekari, Gaya.
12. The Branch Manager, Punjab National Bank, Dhamitola, Gaya.
13. Asha Kumari Mishra @ Asha Devi Wife of Ram Nagina Pandey Daughter of Late Ram Nandan Mishra B/o Ram Niwas Pandey, Resident of Village Ashok Nagar Colony, P.O. + P.S. Dhansar, District-Dhanbad, State Jharkhand.
14. The Branch Manager Punjab National Bank, Nagwan I, Imamganj, Gaya.

.... Respondent/s

==

Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

==

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 08-02-2016

Heard learned counsel for the parties.

At the very outset, it is agreed at the Bar that the grievance of the petitioner stands redressed.

However, during the pendency of the case, some developments have taken place which can only be termed as unfortunate as it has resulted in lodging of F.I.R. against respondent no. 13 for no offence committed by her.

The writ petition had initially been filed against the authority letter issued by the Accountant General, Bihar, Patna by which the family pension due on account of death of late Ram Nandan Mishra was to be divided equally between the petitioner, who is the second wife, and the minor children from the first wife. It appears that the respondent no. 13 was the person who was entitled to 50% of the family pension of her father as she was only 14 years 8 months old when her father died. She being aggrieved approached the Court earlier in C.W.J.C. No. 2989 of 2006 which was disposed off by order dated 09.04.2010 giving liberty to the writ petitioner i.e., respondent no. 13, to raise a claim before the authority. She thereafter filed a petition which resulted in passing of the impugned order. During the course of arguments, it appears that the respondent no. 13 at the time of disposal of her writ application (C.W.J.C. No. 2989 of 2006) had not taken the Court into confidence as on that date, she was no more entitled to even 50% of the family pension as she had already married on 08.05.2010. As the impugned order was issued by the Accountant General, Bihar and pursuant to that payments were credited into the account of the respondent no. 13, prompted the Court to observe that the respondent Bank shall be at liberty to lodge F.I.R. for the respondent no. 13 having dishonestly and fraudulently claimed family pension even after her marriage. The respondent Bank acted on such observation of the Court as contained in its order dated 25.04.2013 and filed a complaint before the police resulting in institution of Imamganj P.S. Case No. 03 of 2016 dated 04.01.2016 under Sections 402/403 of the Indian Penal Code. The case then took an unfortunate turn inasmuch as the then S.H.O., Imanganj P.S., who had initially refused to lodge the F.I.R. even when the Branch Manager of the Branch concerned had given a written complaint to him and only upon the same being transmitted by the Bank to the Senior Superintendent of Police, Gaya as well as the S.H.O. concerned and other police officers also, resulting in lodging of an F.I.R., for which the then S.H.O. Imamganj P.S. was suspended and a departmental proceeding has been started against him for having refused to entertain the complaint when brought personally by the Branch Manager of the Bank. Subsequently, the Bank seems to have realized that all this confusion was avoidable had the accounts been properly looked into as would be apparent from the second supplementary counter affidavit filed on behalf of the Bank (respondent no. 14) today. From the said it transpires that for the period the respondent no. 13 was entitled to family pension i.e. 07.09.2005 to 07.05.2008, she was eligible for 50% of the family pension which works out to Rs. 1,07,805/-. However, she has been paid only Rs. 1,05,596/- i.e., Rs. 2,209/- less than what she was entitled to.

Under the said circumstances, it is quite apparent that the respondent no. 13 had not committed any illegality much less any criminal offence as she has not been paid even the amount she was entitled for the period she was eligible to such family pension under the law. This being the position, learned counsel for the Bank submits that today itself he shall be communicating to the Imamganj P.S. in writing that the compliant filed by the Bank may be permitted to be withdrawn as the respondent no. 13 has been found not to have committed the offence which has been alleged in the complaint. The position emerging before the Court is that for no fault of the respondent no. 13, Imamganj P.S. Case No. 3 of 2016 has been lodged against her. The Bank also clearly and categorically takes the stand that the respondent no. 13 has not drawn any amount of excess money and has rather got less amount than what she is legally entitled to. Considering the said aspect, the Court, for the ends of justice, quashes the F.I.R. of Imamganj P.S. Case No. 03 of 2016.

The petitioner shall accordingly be allowed to draw 100% pension and the respondent no. 13 shall also be allowed to operate the account in which the remaining Rs. 2,209/- has been credited.

The Court is of the considered opinion that the act of the concerned Bank officer needs to be deprecated and he is also warned to be careful in future as only due to the Bank not doing its work, the whole issue besides being blown out of proportion, also led to unnecessary and avoidable prolonging of the case. The warning by the Court in the present order shall be entered in his service record.

The Court would like to indicate that police authorities may not be prejudiced by the various orders which may have been passed by the court in the present case in the pending proceeding against the then S.H.O., Imamganj P.S.

The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

U		T	