IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13708 of 2014

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1. Vijay Narayan Rajak Son of Late Satya Narayan Rajak Resident of Village- Sikariya, P.O. Maksudpur, P.S.- Tekari, District- Gaya.

.... Petitioner/s

Versus

1. Punjab National Bank through its Chairman, PF2 Pension Fund Department, 3rd Floor, Rajendra Bhawan, Rajendra Place, New Delhi- 110008.
2. The General Manager, Provident Fund and pension Fund Department, Head Office, 3rd Floor, Rajendra Bhawan, Rajendra Place, New Delhi- 110008.
3. Chief Manageer, Punjab National Bank, Boring Road, Patna.
4. Branch Manager, Punjab National Bank, Haspura Branch, District- Aurangabad (Bihar)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Udit Narayan Singh

For the Respondent/s : Mr. Sarva Deo Singh

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 16-05-2016

The core issue which arises for consideration is whether the Court should issue a mandamus upon respondent Bank, which is Punjab National bank, to do something which they are not obliged to do in terms of the rules or whether they can be compelled to do something contrary to the rule and requirements thereunder.

Petitioner wants a direction upon the respondent Bank to enroll him under the Pension Scheme and start paying the pension since he is a retired employee of the Bank and superannuated on 31.8.209.

Prior to 2010, there was a scheme for contributory provident fund and not pension for the employees of the Bank.

However, based on an agreement reached between the employees and the Bank, a Pension Scheme was introduced and notified, a copy of which is Annexure- A to the counter affidavit filed on behalf of the Bank. As per the provisions of Annexure- A, all the existing employees and the retired employees were given a window of 60 days to submit option letter and after the expiry of the period so fixed, every employee was required to refund the contributory payment of the Bank to the Bank in one installment as per the norms agreed between the Bank and the employees reflected in the Pension Scheme.

In the present case, petitioner was required to deposit the entire amount as an acceptance to his offer by 24.11.2010, a fact well known to him when he opted for the Pension Scheme. However, he did not do so. He deposited only a portion of the said amount that too after the cut-off date, so the Bank decided to refund that amount and it was refunded on 30.11.2010 itself. The matter should have been closed thereafter. However, the petitioner has taken a chance by making a deposit suo motu of the amount on 27.3.2012, almost two years after the Pension Scheme was closed. There is neither any approval nor any acceptance on the part of the Bank that this was allowed on their behalf. Now, the petitioner wants advantage of his conduct by a direction upon the respondents to include him in the Pension Scheme.

The facts speak for themselves. Since there is no failure on the part of the Bank to go by the rules, the failure is on the part of the petitioner, this Court is not willing to make an exception for one employee on the plea that he was poor or not well read employee, therefore, he was not aware of the details.

The awareness part has also been explained in the counter affidavit that every employee at the time of deposit of such applications was individually dealt with by the competent authority and the implications explained to them.

The Court is not convinced that any leeway is required to be given by way of an aberration at this stage and juncture when the policy and the scheme applies across the board for all the employees across the nation.

Writ application has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

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Uploading Date	16.5.2016
Transmission Date	