

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No 1157 of 2013

IN

Civil Writ Jurisdiction Case No. 6650 of 2007

Subhashish Sen Gupta Son Of Late Yamini Mohan Sen Gupta Resident Of
Mohalla- L/3, Road No. 17, Shri Krishna Nagar, P.S.- Budha Colony, District-
Patna

.... Appellant/s

Versus

1. Bank of Baroda, Through the Chief Personnel Manager, Mandavi, Baroda (Gujrat)
2. The Regional Manager, Regional Office, Bank of Baroda, S.K. Puri, Patna
3. The Senior Branch Manager, Patna Main Branch, Bank of Baroda, Fraser Road, Patna

.... Respondent/s

Appearance :

For the Appellant/s : M/s Mahasweta Chatterjee, Samir Kr & Ram
Nibash Pd, Advocates

For the Bank : M/s Ratnesh Nandan Sinha & Purushottam Pd, Advs

CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

And

HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 18-10-2016

Heard Ms M Chatterjee for the appellant in this intra-Court appeal arising from the judgment and order dated 24.07.2013 passed in *CWJC No 6650 of 2007* (Subhashish Sen Gupta –Versus- Bank of Baroda & Others). The writ petition was dismissed, hence the appeal.

2 The writ petitioner/appellant was a Clerk in the Bank of Baroda. He sought for and was granted 14 months study leave to



pursue MBA course in the United Kingdom (for brevity, *UK*). This was sanctioned by order dated 06.08.1985. Accordingly, the writ petitioner/appellant ought to have reported back for duty by the end of the year, 1986 or early in 1987. He did not return. Ultimately, on 13.01.1988, Bank wrote to him that he had been granted this extraordinary leave to pursue studies abroad upon a bond given by him. He had violated the conditions of the bond and, accordingly, he was directed to rejoin his duty within 30 days failing which it would be deemed that he had sought voluntary retirement. There was no immediate response rather the response was praying for further time to study. Not only this, he did not return to India even soon thereafter. He continued to enjoy life in the UK. He returned back to India in the year, 2005 that is 20 years after he left for a 14 months study. He was naturally not allowed to join. He then filed this writ petition which, as stated above, was dismissed and rightly so. Learned Single Judge has quoted Clause XVI of the Fourth Bipartite Settlement. That clearly stipulates that once he has been given notice to rejoin within 30 days and he (employee) does not join, it would be deemed that he had sought voluntary retirement. That is the end of the matter.

3 Ms Chatterjee then argued that the writ petitioner/appellant should be given voluntary retirement benefits. A mandamus can issue only if a demand is made from the authority and

is refused. There is not a chit of paper whether any such demand was ever raised? What was raised was right to rejoin.

4 We, thus, find no error in the order of the learned Single Judge. This appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J)

(Nilu Agrawal, J)

M.E.H./-

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