IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13885 of 2012

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Badri Prasad Singh Son Of Late Chakradhar Singh Residing At Gangjalla Ward No. 17, Panchwati Saharsa

.... Petitioner/s

Versus

1. The State Bank Of India , through The Chief General Manager, Head Office, Patna

2. The Chief General Manager, State Bank Of India, Head Office, Patna

3. The Chief Manager, Administrative Office Anchalik Office, State Bank Of India, Purnea

.... Respondent/s

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Appearance :

For the Petitioner	:	Mr. Sharda Nand Mishra, Mr. Dhananjay Kumar Gupta and Mr. Rajiv Ranjan, Advocates
For the Respondents :		Mr. S. D. Sanjay, Sr. Advocate with Mr. Abhishek Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 25-02-2016

Heard learned counsel for the parties.

The writ petition has been filed by the petitioner for holding that the interest charged on his loan account from 02.04.2004 may be held to be not permissible and the amount, so adjusted, be refunded to him.

Learned counsel for the petitioner submits that he was removed from service on 02.04.2004 and despite his challenge to the same before the authority concerned and also the High Court thrice earlier, the order was maintained and thereafter he has been paid his retiral benefits by the respondent State Bank of India (hereinafter referred to as the ‘Bank’) but after adjusting the outstanding amount from the loan, which he had taken while being in service. He submits that the Bank on the one hand continued charging interest on the loan whereas on the other hand the dues which had accrued to the petitioner on account of his post retiral benefits were neither paid nor adjusted against his loan account, which is clearly unsustainable. It is submitted that had the retrial benefits amount, which was more than the outstanding dues of the petitioner towards the Bank, been adjusted at the relevant time, that is, 02.04.2004, there would not have been any occasion for the petitioner to suffer a huge loss by way of interest, which kept on accruing due to the account not being finally settled. He submits that the Bank has made payment of retrial benefits to him only in the year 2012, which is arbitrary.

Learned counsel for the Bank, relying upon the counter and supplementary counter affidavits filed by him, submits that as the petitioner was removed from service, it was not a normal superannuation and further the petitioner himself kept moving before the Hon'ble Court, not once, but thrice, challenging the order of his removal from service and only upon the matter having attained finality, he applied to the Bank for grant of his retiral benefits on 17.07.2011. He submits that the said requirement of an employee applying for his retiral benefits is a mandatory condition before the Bank can settle the retiral dues and in the present case, the same has been done promptly. As far as the loan account of the petitioner is concerned, the stand is that it is a separate account and is governed by the normal Rules which stipulate that till the account is finally settled, it shall carry interest, though in the case of an employee the rate may be different to what the Bank charges from a third person. In the present case, there being no instruction from the petitioner to adjust his post retiral benefits to satisfy his loan account, the Bank on its own could not have earlier done the same, moreso when even the application for grant of retiral benefits had not been submitted to the Bank. Learned counsel submits that the said application seeking post retiral benefits is filled by an employee and routed through the Branch Manager and the petitioner having held the post of Branch Manager was fully aware of the procedure adopted in the Bank as he had on many occasions forwarded such request/application to the Competent

Authority for sanction/payment of post retiral benefits. It is submitted that only at the time when the Bank is finally settling the account of an employee by way of paying him the admitted retiral benefits, it has to ensure that all his loan accounts are satisfied and at that moment the question of adjustment of the amount of retiral benefits with the outstanding loan amount arises. In the present case, the same having been done, learned counsel submits, the petitioner cannot have any genuine grievance. Learned counsel further submits that the petitioner at no point of time either filed any petition before the Bank or moved the Court for the redressal of his grievance that despite him having been removed from service on 02.04.2004, the Bank was not paying him his retiral dues. It is thus submitted that the petitioner was taking a chance and was hopeful of relief while moving the authorities and the Court and ultimately after having failed, he has made the required application upon which the Bank has promptly acted. Learned counsel submits that the petitioner has been paid all his retiral benefits under various heads and nothing now remains to be paid and even the loan accounts of the petitioner have been adjusted.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any reasonable ground to interfere. The loan account being of a very different nature naturally would carry interest till the time the account is finally settled and the petitioner neither having expressed his desire or having communicated the same to the bank authorities to adjust from his retiral benefits, the authorities could not, at the very initial stage have done the same and accordingly, if they have so done at the final stage of making payment of retiral dues to adjust the outstanding loan amounts, such act cannot be said to be arbitrary as the Bank is justified in recovering its dues and in the present case them having adjusted from the amount to be payable to the petitioner, the action cannot be faulted.

At this stage, learned counsel for the petitioner submits that the salary of two days as well as up-to-date interest on Provident Fund have not been paid to the petitioner and further that in the absence of a detailed calculation chart, he is not in a position to satisfy himself as to whether the payments are correct or not. The Court finds such grievance to be valid. Accordingly, let the Bank provide the petitioner with detailed calculation charts relating to the heads on which the payments have been made to him within one week from today. The petitioner thereafter shall be at liberty to file a representation before the Bank, in case he finds any error in calculation or if the statutory interest payable to him on whichever head has not been so done. If the petitioner files such representation within two weeks of the calculation charts being served, before the respondent no. 3 along with a copy of this order, he shall look into it and pass a reasoned order and shall also communicate it to the petitioner. If the grievance of the petitioner is upheld, and any further payment is required to be made, the same shall be done within four weeks thereafter.

The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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