IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1188 of 2012

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Umeshwar Jha Son Of Late Jaleshwar Jha Resident Of Village Jhajhilal, P.S. Pupri In The District Of Sitamarhi

.... Petitioner/s

Versus

1. Punjab National Bank through Its Chairman, Head Office, 7, Bhikji Cama Place, New Delhi-110607

2. The General Manager, P.N.B., P.S. and Pension Fund Department, Head Office, Rajendra Bhawan, Rajedra Place, New Delhi

3. Chief Manager, Punjab National Bank, Boring Road, Patna.

4. Branch Manager, Punjab National Bank Mohini (Mahua Gachi), Patna

5. Branch Manager, Punjab National Bank, Risian Of Branch, District Aurangabad

6. Senior Manager, Punjab National Bank, Circle Office, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 15-02-2016

Heard learned counsel for the parties.

The writ petition has been filed for a direction to the respondents to give him the benefit of the pension scheme. The brief facts of the case are within narrow compass. The petitioner pursuant to the second option given to the Bank to opt for pension made a formal application dated 21.10.2010, that is, admittedly before the last date 25.10.2010. The confusion/controversy starts thereafter inasmuch as whether the petitioner who was required to refund within 30 days after expiry of the said period of 60 days, that is, from 25.10.2010, the entire amount of the Bank to the Provident Fund and interest accrued thereon received by him on retirement together with his share in contribution towards meeting 30 % on the funding gap was so done.

Learned counsel for the petitioner submits that as per the scheme contained in PF & Pension Circular No. 8/10 dated 16th August, 2010, more specifically Clause 8, after the person opting for pension, the branches were to be advised separately by the Bank who, in turn, had to advise/communicate the same to the person concerned, that is, the petitioner. It is submitted that till date there have been no communication by the Bank to the petitioner as to the amount he is required to deposit with the Bank for getting the benefit of the pension scheme accruing to him. However, in the counter affidavit filed, a sum of Rs. 352892.61 is said to be the amount required to be refunded by the petitioner.

Learned counsel for the Bank submits that the petitioner was also aware of the period of 30 days for clearing dues from the cut off date but he has also chosen to remain silent and thus the time having elapsed, the petitioner cannot be given such benefit as it was incumbent upon him to also satisfy the condition to refund the amount within 30 days from 25.05.2010.

Having considered the rival contentions, the Court finds that the petitioner cannot be faulted for the inaction on the part of the respondent Bank and its authorities. The scheme clearly provides that the person had to submit his option within the stipulated period and then the onus shifts on the Bank to communicate to the person concerned with regard to the amount to be refunded and it was also clearly stipulated that the Bank lateron would separately advise the branches who, in turn, had to advise/communicate the same to the person concerned. It is an admitted position that no official communication was ever sent by the Bank or the branch to the petitioner calling upon him to refund any amount.

This being the position, the petitioner cannot be saddled with the liability of not having complied with the condition of refunding the amount within 30 days. Accordingly, the petitioner is held entitled to pension under the said scheme of pension of the respondent Bank. However, the same shall be started upon the petitioner depositing a sum of Rs. 352892.61 with the concerned branch within one month from today along with a copy of this order to the Senior Manager, Punjab National bank, Circle Office, Muzaffarpur who is also impleaded as respondent no. 6. The respondent no. 6 shall thereafter ensure that actual payment of pension under the scheme is made to the petitioner within one month thereafter.

The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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