IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6216 of 2014

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Dasrath Prasad Choudhary son of Late Manganu Choudhary, resident of village and Post- Tajpur, Police Station and District- Sheopur.

.... Petitioner/s

Versus

1. The Chairman Uttar Bihar Gramin Bank, Head Officer, Kalambagh Chowk, Sharma Complex, Muzaffarpur, Pin Code- 84209
2. The Regional Manager, Uttar Bihar Gramin Bank Regional Office, Kargil Chowk, Sitamarhi, District- Sitamarhi, Pin Code 843301.
3. The Branch Manager Uttar Bihar Gramin Bank Branch, Bajpatti, District- Sitamarhi 843314.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar, Advocate

For the Respondent/s : Mr. Prashant Vedsen, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 22-06-2017

The instant writ application has been filed by the petitioner for directing the respondents to pay his retirement benefits as well as for quashing letter no.194 dated 20.05.2013 issued under the signature of the Regional Manager, Uttar Bihar Gramin Bank, Sitamarhi, letter no.126 dated 03.09.2013 issued under the signature of the Branch Manager, Uttar Bihar Gramin Bank, Bajpatti Branch, Sitamarhi and letter no.359 dated 11.06.2013 issued under the signature of the Regional Manager, Uttar Bihar Gramin Bank, Sitamarhi, whereby the concerned respondents have conveyed that certain amounts which were found due against him may be adjusted against payment of his retirement benefits.

2. Learned counsel for the petitioner submitted that the respondents have illegally and arbitrarily withheld the retirement benefits of the petitioner. He has submitted that the petitioner superannuated as Branch Manager from Bajpatti Branch, Uttar Bihar Gramin Bank, Sitmarhi on 31.01.2013. He has submitted that while the petitioner was in service no departmental proceeding was initiated against him and even after his retirement the respondents have not taken any disciplinary action against him. However, they have illegally withheld the amount of gratuity, leave encashment and GSLI.

3. Per contra, learned counsel for the bank submitted that following retirement benefits were payable to the petitioner on his superannuation on 31.01.2013:

(i) Gratuity	– Rs. 9,72,854/-
(ii) Leave encashment	– Rs. 4,11,384/-
(iii) GSLI	– Rs. 48,933/-
Total	– Rs. 14,33,171/-

4. He submitted that following amount has been recovered from the amount payable to the petitioner towards his retirement benefits:

(i) Eudcation Loan with petitioner of his son	– Rs. 7,66,803/-
(ii) Over draft of petitioner	– Rs. 3,80,011.14
(iii) Over payment by petitioner in	

KCC Account –Rs. 17,300/-
(iv) Over payment over draft – Rs. 21,918/-
(v) Prime Minister Employment Guarantee Programme Loan disbursed without getting subsidy payable to borrower – Rs.1,40,000/-
(vi) Excess House Rent paid – Rs. 3,300/-
(vii) Loan Document not handed over to new Branch Manager, who took charge from petitioner – Rs. 65,902/-.

5. Learned counsel for the bank submitted that the Regional Manager, Uttar Bihar Gramin Bank, Sitamarhi had communicated the petitioner about the dues against him under different heads while he was posted at Kushahar Branch and Bajpatti Branch of the bank and he was asked to settle the dues so that his retirement benefits may be paid to him, but he failed to clear his dues and, hence, after making adjustment he has been paid the balance amount of Rs.37,936.86 of his retirement dues. He submitted that the said amount has already been paid to him on 29th July, 2015.

6. In reply, learned counsel for the petitioner submitted that the petitioner does not dispute to the recovery of the amount under educational loan of his son and over draft taken by him. However, he seriously objects in respect of recovery made under the heads over payment by petitioner in KCC account, over payment of over draft, loan disbursed without getting subsidy payable to borrower under Prime Minister Employment Guarantee Programme, excess house rent paid; and loan document not handed over to the new Branch Manager, who took charge from the petitioner.

7. Learned counsel submitted that the respondents have illegally adjusted the aforesaid amounts, as the petitioner was not responsible for any loss caused to the bank in any manner. His responsibility has not been fixed by the respondents by any legal process. He has submitted that the respondents have made payment to the petitioner with wrong calculation and illegal adjustment. He submitted that the petitioner had already sent letters for claiming subsidy in Prime Minister Employment Guarantee Programme in the month of January, 2011, but the Regional Office did not forward the same to the Link Branch, Patna. Therefore, the subsidy amount could not be received by the Branch of the bank. Thereafter, the petitioner had been transferred to Bajpatti Branch from Kushahar Branch. As such, the petitioner is not responsible for any fault.

8. He submitted that the petitioner did not get charge of the loan document from his predecessor Vijay Kumar Pandey of Bajpatti Branch and for that the petitioner had written letters to the Regional Manager on 31.03.2011, 30.03.2012 and 31.08.2012. According to him, the petitioner had not taken charge of the loan documents and, therefore, he had not given charge of the said documents to Sri Rajendra Bhagat, while he had given charge of loan document of his tenure i.e. from 17.01.2011 to 31.01.2013. He has submitted that so far as the house rent of satellite branch is concerned, the same cannot be realized from the petitioner. He has submitted that since the respondents have calculated interest over the amounts of education loan and the over draft of the petitioner, the petitioner is entitled for interest over the balance amount which would be payable to him.

9. I have heard learned counsel for the parties and perused the record.

10. In my considered opinion, recovery of any amount from a retired employee by the employer can be done only in accordance with the service rules or in agreement between the parties. Such recovery would always involve question of computation and the liability. Nothing has been brought to the notice of the Court by the learned counsel for the bank that recoveries were ordered against the petitioner pursuant to any departmental proceeding against him in terms of the Officers and Employees of the Service Regulation, 2010 governing the services of the officers and the employees of the Uttar Bihar Gramin Bank.

11. It is an admitted fact that no proceeding was initiated against the petitioner by the bank while he was in service. Even after his superannuation on 31.01.2013, no action in terms of service of the aforementioned service regulation has been taken against him. Thus, the recovery of any amount could have been made by the bank only with the consent of the petitioner or by instituting a properly constituted money suit before a civil court of competent jurisdiction. Such action having not been resorted to, the action of the respondents bank whereby it has suo motu recovered the amount from the retirement benefits of the petitioner, cannot be justified. Such action is wholly misconceived.

12. Regard being had to the fact that the petitioner has not disputed recoveries under the heads education loan and the over draft of the petitioner, the action of the bank may be justified in respect of recoveries made under those heads. However, adjustment made by the bank under the heads over payment by petitioner in KCC Account, withdrawal of excess amount from his own bank account (over payment of over draft), loan disbursed under the Prime Minister Employment Guarantee Programme without getting subsidy payable to borrower, excess house rent paid and due to not handing over of the loan document to new Branch Manager, who took charge from petitioner cannot be justified in law.

13. Since those payments became due to the petitioner on the date of his retirement on 31.01.2013 and have been detained illegally by the bank for over four years, I direct the respondents to pay the amount adjusted under those heads with interest at the rate of nine per cent per annum from the date it became payable to the petitioner till the date of actual payment. The aforesaid payment shall be made to the petitioner as early as possible, but not later than three months from the date of receipt/production of a copy of this order. In case, the aforesaid amount with interest is not paid to the petitioner within the time stipulated herein above apart from the principal amount and interest over it, the bank shall have to pay a cost of rupees fifty thousand to the petitioner, which the bank would be entitled to recover from the officer/officers responsible for causing such delay in accordance with law.

14. With the aforesaid observations and directions, the writ application is disposed of.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	29.06.2017
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