IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 8231 of 2014 (O/M)
Date of decision : 7.2.2017

Smt. Sunita Devi .... Petitioner (s)

Versus

The Managing Director, Indian Bank, and others .... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ranvir S. Chauhan, Advocate, for the petitioner.

Mr. Tribhawan Singla, Advocate, for respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

-.- -.-

KULDIP SINGH J. (ORAL)

Shri Balwant Singh Chauhan, who was posted as a Branch Manager in Indian Bank, Chandni Chowk, Old Sabzi Mandi, Kaithal, expired in harness on 19.5.2011 in a vehicular accident. His wife Smt. Sunita Devi has filed the present writ petition for the release of terminal benefits and the family pension with interest. She has also sought the quashing of the proceedings dated 19.6.2013 (Annexure-P-8), which is reply to the legal notice dated 6.5.2013, served by the petitioner on respondents, vide which the terminal benefits and the family pension have been withheld for alleged loss sustained, without giving an opportunity of hearing to the petitioner.

In the reply, respondents claim that after the death of Shri Balwant Singh Chauhan, Ex-Manager, certain serious irregularities/fraud committed by him were detected, while he was working at Kaithal branch, during the course of inspection. After the investigation, it was found that some receipts were missing from the inventory. The stand taken by respondents in the written statement is reproduced as such as under :-

> "2) That after the death of aforesaid employee Sh. Balwant Singh Chauhan, the respondent bank came to know about certain serious irregularities/fraud committed by him and therefore, the inspection cell of Respondent Bank conducted a regular inspecion of the Kaithal Branch and during the course of inspection, the branch received four R.I.P. (Term Deposit Receipts) purportedly issued by late Sh. Balwant Singh Chauhan while working at Kaithal Branch but the same were not appearing in the records of the branch and after investigation, it was found that these receipts were missing from the inventory and from further enquiry/physical verification, it was found that 66 Term Deposit Receipts were missing from the stock. That the branch could procure only 43 Term Deposit Receipts which were issued in the name of members of two families and the fate of 23 missing Term Deposit Receipts are not still known. That there were many other suspicious transactions in the Term Deposit Accounts noticed by the inspection team. That out of 43 Term Deposit Receipts which the branch had procured detail, 18 were traced in the house of late Sh. Balwant Singh and 21 were claimed by one Gupta family and four by another family issued clandestinely by the deceased employee. In addition, 7 RIP receipts held by Gupta family were pre-closed in the computer system on various dates without original receipts by the deceased officer and the proceeds were allegedly siphoned off by the deceased officer by opening fraudulent saving accounts and therefore, the claim had arisen for 32 receipts (21+4+7) so far."

Therefore, it is stated that a sum of Rs. 22,83,321/- has been paid to the claimants, as per the Banking Ombudsman order. Consequently, the bank has suffered a loss of Rs. 22,83,321/- so far. Apart from said loss, in event of claims arising on 23 untraced missing term deposit receipts and possible unaccounted transaction in term deposit accounts in the book of the bank, the total loss is much higher than that. It is further stated that there is still outstanding liability of Rs. 1,74,725/- as on 1.3.2013 and that still a total sum of Rs. 24,61,000/- (Rs. 1,77,000/- + Rs. 22,83,000/-) is to be recovered from the remaining terminal benefits of the deceased employee. It is further stated that the total approximate amount (including terminal benefits), amounting to Rs. 37,38,000/-, is still due to the deceased employee.

I have heard the learned counsels for the parties and have also carefully gone through the file.

The learned counsel for the petitioner has very fairly stated that the petitioner has received the family pension. The other terminal benefits, except a sum of Rs. 22,83,321/-, has been withheld by respondents. The written statement by respondents shows that some irregularities were found and 66 Term Deposit Receipts were lost, out of which only 43 Term Deposit Receipts could be procured and 23 Term Deposit Receipts are still missing.

I am of the view that if some record is missing and the bank is of the view that the deceased employee has committed some fraud with the bank, then at least some internal inquiry is required to be held to fix the responsibility after giving an opportunity of hearing to the petitioner. It is only after the inquiry can be held as to whether the branch manager was responsible for the loss of the said Term Deposit Receipts or some other employee was involved. Merely on the basis of inspection and finding that 23 Term Deposit Receipts are missing, the bank was not justified in jumping to the conclusion that the branch manager is responsible for the same. The possibility is that some mischievous act was done by some other employee of the bank and the said Term Deposit Receipts might have got missing in that process. Therefore, to withhold an amount of Rs. 22,83,321/- from the terminal benefits of the deceased employee is unjustified.

The learned counsel for the petitioner further claims that no interest has been paid for the remaining benefits, already released to the petitioner, which were withheld by respondents for around 6 years.

In these circumstances, it is held that withholding an amount of Rs. 22,83,321/-, without fixing the responsibility of the deceased manager, is illegal and is hereby set aside. Keeping in view the fact that there is alleged defalcation, respondents are now given three months' time from the date of receipt of certified copy of this order to hold an inquiry and fix the responsibility after giving an opportunity of hearing to the petitioner and thereafter only the amount, for which the deceased Shri Balwant Singh Chauhan, Ex-Manager, is held responsible, shall be withheld and the remaining amount shall be released to the petitioner with interest at the rate of 9% per annum immediately thereafter. However, at the same time, it is further held that if the bank is unable to find out that Shri Balwant Singh Chauhan, Ex-Manager, was responsible for the said alleged loss, the amount alongwith abovementioned rate of interest, shall be released to the petitioner. Since the remaining benefits have been withheld for around six years, therefore, the bank is ordered to pay 9% per annum interest on the payment already released to the petitioner, starting three months from the date of death of the deceased employee till the date of payment.

The present writ petition is partly allowed.

(KULDIP SINGH)
JUDGE

7.2.2017
sjks

Whether speaking / reasoned	:	Yes
Whether Reportable	:	No