

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.805 of 2016

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Shio Kumar Chaubey, son of Late Raghunath Chaubey, resident of Village & P.O.
- Bamhwar, Police Station - Piro, Dist – Bhojpur Petitioner

Versus

1. The State of Bihar.
 2. The Director, Secondary Education, Government of Bihar.
 3. The District Education Officer, Bhojpur.
 4. The District Programme Officer (Estab) Bhojpur.
 5. The Treasury Officer, Bhojpur at Arrah.
 6. The Punjab National Bank through its Zonal Manager, Bihar.
 7. The Branch Manager, Haswadih Branch, Punjab National Bank, Bhojpur.
 8. The Accountant General, Bihar Respondents
- =====

Appearance :

For the Petitioner : Mr. Gyan Shankar, Adv.
For the Respondents : Mr. M.K. Sinha, SC IX

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date: 12-01-2018

Heard learned counsel for the petitioner, State, Accountant
General and Punjab National Bank.

2. In terms of the last order, respondents no. 5 and 7 are present. Supplementary counter affidavit has also been filed on behalf of the respondent no. 7.

3. The issue now is limited to who was responsible for the delayed payment of gratuity to the petitioner despite the sanctioning authority having ordered for the same and even the Accountant General having issued the authority slip. The delay in payment is for about one and half years.

4. From the materials on record it appears that the then Branch Manager, Punjab National Bank, Haswadih Branch, in the district of Bhojpur, had written to the Senior Treasury Officer, Bhojpur, on 23.02.2016 that the original copy of the DCRG has been lost.

5. Learned counsel for the petitioner submitted that the said



certificate itself was admission of the fact that the copy was lost by the Punjab National Bank and, thus, in such view of the matter payment being made of Rs.7,51,410/- after more than one and a half years, the petitioner has been deprived of his *bona fide* and legitimate interest.

6. Today, learned counsel for the respondents no. 6 and 7 has taken a stand that the letter written by the then Branch Manager is not happily worded but because of such statement made in the aforesaid letter, there is not much scope for argument.

7. Having considered the matter, the Court considers that the language of the aforesaid letter dated 23.02.2016 of the then Branch Manager, Punjab National Bank, Haswadih Branch, in the district of Bhojpur, to the Senior Treasury Officer, Bhojpur, where it is clearly written that the original copy of the aforesaid DCRG has been lost, clearly indicates that the same has been lost by the Bank, for the reason, that if it is interpreted to be that the same has not been produced in the Bank, then there could not have been any occasion to write that the same has been lost, for it was not within the knowledge or information of the Branch Manager as to whether the said DCRG was issued or whether the same has been lost as it is only the person in whose possession a thing is, can give certificate whether it is lost, destroyed or not traceable. The person who has not received can only make a statement that the same was not received by or produced before him ever. He cannot give a certificate as to whether the document or thing is lost.

8. In such view of the matter, the Court finds that the grievance of the petitioner, who is a retired employee, of losing



valuable usufruct of a heavy amount is genuine.

9. Accordingly, in the opinion of the Court the petitioner is required to be suitably compensated.

10. In view thereof, the Court awards 6% simple interest to the petitioner on the amount of gratuity for the period of delay. The same shall have to be borne by the Punjab National Bank. The payment be credited to the account of the petitioner within one month from the date of production of a copy of this order before the respondent no. 7.

11. Personal appearance of the officers stand dispensed with.

12. The writ petition stand disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

SA/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	12.01.2018
Transmission Date	N/A

