IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14309 of 2009

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Md. Ehsanuddin Ansari, S/O Late Md. Mohsin Ansari, At & P.O. Amari Kukron, P.S. Dhamdaha, Distt. Purnea, Bihar

... ... Petitioner/s

Versus

1. The Zonal Manager, Bank of India, Bhagalpur Zone, Adampur Chowk-812 001
2. The General Manager Bank of India, Bhagalpur Zone, Adampur Chowk-812 001
3. The Chief Manager Bank of India, Bhagalpur Zone, Adampur Chowk-812 001

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dhruba Mukherjee, Sr. Advocate.
		Mr. Ganesh Singh, Advocate.
For the Respondent/s	:	Mr. Suresh Prasad Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 17-09-2018

Heard Mr. Dhrub Mukherjee, learned senior counsel appearing on behalf of the petitioner and Mr. Suresh Prasad Singh, learned counsel appearing on behalf of the Bank.

Pursuant to order dated 03.08.2018, a supplementary counter affidavit has been filed on behalf of the Bank on 13.09.2018 taking the following stand in para-2 to 4, which reads as under:-

> *"2. That the aforesaid case was heard on 23.08.2018, when, upon second supplementary affidavit was filed by the petitioner and referring to Annexure-12 and 13 to the SA i.e., copy of IBA circular dated 16.03.2018 and Branch Circular No. 112/13 dated 26.04.2018, the petitioner claimed to be entitled for pension, whereupon the Hon'ble court wanted to satisfy the court on the issue such as "(i) whether the decision of the Board is binding on the Bank. (ii) Whether the decision was acted upon in*

> *relation to any such employee, employed in the Bank. (iii) The Bank has to file an affidavit indicating that the Bank can grant the said relief, if the petitioner withdraw the writ application." Hence in compliance of the said order, this supplementary affidavit is being filed.*
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> *3. That it is submitted that after knowledge of the aforesaid order, the matter was brought in the knowledge of the Industrial Law Division, BOI, HO Mumbai, from where it has been informed that the decision of the Board is binding on the Bank, and the decision has been acted upon regarding the employees who have followed the mandates of the circular and opted for pension as per Terms and Guidelines of the bank and in reply of query no. (iii) it has been informed that as per terms and Guidelines of the Bank, the application of Md. Ehsanuddin Ansari was neither received within the prescribed time limit nor he deposited the amount/finds as per circular/rules with the Bank within the time limit, hence Md. Ehsanuddin Ansari is not eligible for the benefit.*
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> *4. That it relevant to submit that any policy decision is required to be followed in its true letter and spirit, but from the aforesaid facts mentioned above, it is submitted that, neither the petitioner had followed the terms of annexure-13 nor he could get the said benefit."*

Considering the objection of the bank aforesaid, the Court is of the view that it is not a real objection inasmuch as there is no denial that there exits a policy. The policy decision was taken for grant of pensionary benefit which came into existence on 26.04.2018 i.e., during the pendency of the present writ application. On principle, there is no dispute that compulsory retired employees are also entitled to pension in terms of the Circular No. 112/13 dated 26.04.2018. The object of Bank is that the petitioner has not approached the Bank within 60 days in terms of the aforesaid Circular dated 26.04.2018 and as such he is not entitled to pensionary benefit.

Learned counsel appearing on behalf of the petitioner has drawn attention of this Court to the supplementary affidavit, particularly Paragraph No. 7 to contend that petitioner did approach the Bank but his claim was not entertained by the Bank.

Without going into the rival contention on the point that whether petitioner has approached the Bank within 60 days from 26.04.2018 or he has approached belatedly, this writ application is disposed of with a direction to the Bank to entertain the application of the petitioner for grant of benefit under Circular No. 112/13 dated 26.04.2018 as a special case. If the petitioner files application exercising option in terms of Circular dated 26.04.2018 within a period of one month from today along with a copy of this order with undertaking that petitioner will return the benefit availed by him in terms of aforesaid Circular dated 26.04.2018 i.e., contribution to the provident fund within a period of 30 days from the date of demand raised by the Bank. On completion of the formality, as indicated above, the Bank will admit the petitioner to the benefit pension in terms of Circular No. 112/13 dated 26.04.2018 and ensure the benefit available under the aforesaid Circular dated 26.04.2018 including the arrears admissible, within a further period of 60 days from the date of raising demand.

With the aforesaid writ application stands disposed of.

(Anil Kumar Upadhyay, J)

sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	