IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1429 of 2014

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1. Rajeev Nayan, Son of Late Sachidanand.
2. Rishi Nayan, Son of Late Sachidanand.
3. Pranay Nayan, Son of Late Sachidanand.
4. Nutan Devi Daughter of Late Sachidanand.
5. Ritu Devi Daughter of Late Sachidanand. All are resident of Village- Khapura, Post Officer + Police Station- Pakribarawan, District- Nawadah.

.... Petitioner/s

Versus

1. The Punjab National Bank through its Chief Vigilance Officer/C.P.I.O., PNB, Head Office, 7 Bhikaji Cama Place, New Delhi- 110066.
2. The General Manager, Punjab National Bank, 5 Parliament Street, Head Office, Delhi.
3. The Chief Manager, Personnel Division, Head Office, New Delhi.
4. The Zonal Manager, Punjab National Bank, Bihar Zone, Patna having its Office Near R. Block, Patna.
5. The Divisional Manager, Punjab National Bank, Divisional Office, Biharshariff at Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Sinha and Mr. Arun Kumar, Advocates
For the P.N.B.	:	Mr. Suresh Prasad Singh No.1 and Ms. Kumari Reshmi, Advocates

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 13-04-2018

Heard learned counsel for the petitioners and Punjab National Bank (hereinafter referred to as the 'Bank').

2. The petitioners have moved the Court for the following reliefs:

> *" That the petitioner prays for issuance of a writ in the nature of mandamus commanding and directing upon the Respondents concerned to pay the pension and other retrial benefits along with statutory and penal interest to the petitioner as petitioner has been ordered to be compulsorily retired under Regulation 4(h) of the Respondent Bank on 22.7.1998*

as a punishment in departmental proceeding and the same has also been affirmed by the Appellate authority vide order dated 23.10.99 despite that in pretext of pendency of a criminal case for the same allegation claim of pension and retrial benefits of the petitioner kept in abeyance for last 13 years while in criminal case also petitioner has been acquitted vide judgment dated 19.12.2012 passed by learned trial Court and thereafter petitioner also approached before the Respondents for settlement and payment of his retrial benefits but till date not a single farthing has been paid to the petitioner without assigning any reason though there is no legal embargo to pay the same. And/or any other relief/reliefs for which the petitioner is found entitled to in the facts and circumstances of the case."

3. The original writ petitioner, Sachidanand, having died has been substituted by his three sons and two daughters. The father of the petitioners was an employee of the Bank but due to serious charges against him, he was placed under suspension and in a departmental proceeding after due enquiry an order dated 22.07.1998 was passed by which he was made to compulsorily retire under Regulation 4(h) of the Punjab National Bank Officer Employees' (Discipline & Appeal) Regulations, 1977 (hereinafter referred to as the 'Regulations') and further punishment was imposed under Rule 15(3)(b) of the Regulations by which for the period he remained under suspension, he was held not entitled to any pay or allowance except for subsistence allowance. The petitioner filed appeal against the said order and the appeal was rejected confirming the order of the

Disciplinary Authority by order dated 23.10.1999. The petitioner in the meantime was also facing criminal proceeding in which by judgment dated 19.12.2012, he was acquitted giving benefit of doubt. The father of the petitioners thereafter approached the Bank for payment of his terminal dues, and the payments were made of admitted dues during the pendency of the writ application. However, the same is being contested that the entire dues have not been paid.

4. Learned counsel for the petitioners submitted that their father having been made to compulsorily retire on 22.07.1998, was required to be paid all his terminal dues at that very point of time and non payment has made them entitled to interest on delayed payment. It was further submitted that the person is not required to move before the authorities and rather it is the obligation and duty of the authorities to ensure such payment and even if there have been any shortfall in the formalities required to be completed for such payment, the liability for the same cannot be fastened on the father of the petitioners

5. Learned counsel for the Bank referred to the affidavits filed by him in the present proceeding and also to the Regulations under which action has been taken to indicate that the payment made to the petitioner was in accordance with what he was entitled to and whatever amount has been withheld is not only reasonable but in

accordance with the power vested in the authorities to withhold such amounts in terms of the provisions of the Rules of the Punjab National Bank Employees's Provident Fund Trust, especially Rules 13 and 15(D) of the same.

6. Having considered the matter and taking into account the fact that the original writ petitioner died on 12.01.2018, and not leaving behind a living spouse, the Court is not persuaded to exercise its discretionary, extraordinary and prerogative writ jurisdiction under Article 226 of the Constitution of India. After the order of dismissal in the year 1998, the original writ petitioner chose not to agitate, either before the authority or the Court, for payment of his retiral dues and the same being done only in the year 2014, i.e., after 16 years, obviously indicates gross delay and grave laches on the part of the father of the petitioners, as a person is required to approach the Court within a reasonable period from the cause of action arising. He himself having held the post of Manager in the Bank was fully aware of the requirements for such retiral benefits to be paid and choosing to remain silent and thereafter when he was acquitted in the criminal case, moving before the authorities and even after that coming to the Court only in the year 2014, clearly is far beyond any reasonable period in which he should have approached. Moreover, whatever amount has been held up appears to be in conformity with the power

vested in the authorities and even with regard to the loss suffered, much prior to the order of compulsory retirement, in the year 1995 itself, the Bank had officially communicated to the Reserve Bank of India, by way of a report on actual or suspected fraud in the Bank for which the amount has been quantified and it had been written that such fraud was on account of the deeds of the father of the petitioners relating to 40 IRDP Loan accounts where the suppliers have been paid without them supplying the goods/materials to the loanees.

7. Thus, taking an overall view in the matter, the Court not being persuaded to interfere, the writ petition stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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