IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 11400 of 2008

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Kamal Narayan Jha, Son of Late Srinarayan Jha, resident of Village and Post Office-Rampatti, Police Station-Rajnagar, District- Madhubani at present residing in the House of Anand Bihari Sharan, Advocate, House No. 206 Road 1/D, New Patliputra Colony, Patna.

.... Petitioner/s

Versus

1. Central Bank of India, Registered Head Office Chandramukhi at Nariman Point, Mumbai through its Chairman and Managing Director.
2. The Chairman and Managing Director, Central Bank of India, Central Office, Chandramukhi Nariman Point, Mumbai.
3. The Chief Manager, HRD/CSD Central Bank of India, Central Office, Chandramukhi, Naraman Point, Mumbai.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 28-02-2018

Heard learned counsel for the petitioner. Nobody appears on behalf of the Central Bank of India (hereinafter referred to as the 'Bank').

2. The petitioner has moved the Court for the following reliefs:

> *"(i) Issuance of a writ in the nature of Mandamus directing and commanding the Respondents to pay the entire retrial benefits to the petitioner including Gratuity, Provident fund, Group Insurance, arrear salary for the period 31.12.2005 to 31.07.2006, salary against leave for the period June 2003 to 3.8.2004, House Rent Allowances for the period 11.9.2003 to 31.7.2006 and annual increments due from 1987 as well as dues of T.A. Bills with adequate amount of interest @ 18% per annum and penal interest to which petitioner is found entitled to.*
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> *(ii) Issuance of further writ in the nature*

of Mandamus commanding the Respondents to re-calculate the Gratuity amount after allowing legal and proper increments w.e.f. 1987 and thereby to pay the arrears of difference of Gratuity amount with interest @ 18% and penal interest thereon.

(iii) Issuance of an appropriate declaration and holding that since the petitioner has superannuated on 31.7.2006 and even on the lapse of about 2 years no retrial benefits have been paid to the petitioner, the Respondent Bank and its authorities are liable to pay the entire retrial benefits with interest @ 18% per annum along with suitable amount of compensation for causing mental agony and harassment to petitioner in addition to interest for delayed payment from the date of superannuation till the date same would be paid.

(iv) Issuance of an appropriate declaration that on account of non-payment of retrial benefits to petitioner, the petitioner's mother succumbed in absence of proper treatment for want of money and therefore, the Respondent Bank and its concerned authorities are liable to pay suitable amount of compensation for causing irreparable loss to petitioner.

(v) Any other relief or reliefs be granted to petitioner to which he is found to be entitled to in accordance with law."

3. The petitioner being an employee of the Bank superannuated on 31.07.2006. Upon superannuation, though his terminal benefits were calculated but not paid for the reason that the loan he had taken from the Staff Co-operative Society had outstanding dues, and the same was sought to be adjusted. However, pursuant to the order of the Civil Court at Kolkata, certain amount was adjusted and the rest was credited into the account of the petitioner on 27.08.2008. But, immediately thereafter, the account

was frozen on the ground that the petitioner owed more amount to various Co-operative Societies of the Bank. Being aggrieved, the petitioner has moved the Court.

4. Learned counsel for the petitioner submitted that his loan with the Co-operative Societies were separate and distinct from his obligation to the Bank and the same cannot be recovered from his terminal dues, the same being in connection with the Co-operative Societies. It was further submitted that even the management of the Bank has clarified that neither any undertaking can be taken from any employee for adjusting or recovery of any amount from his terminal dues relating to the dues of the Co-operative Societies nor the same should be recovered from such dues, as legally the Bank was not bound to recover such dues from the terminal benefits of the petitioner. This is reflected from the letter of the respondent no. 3 to the Manager of the Central Bank of India, Staff Co-operative Credit Limited, Muzaffarpur, which is a Co-operative Society, dated 20.10.2006.

5. A counter affidavit has been filed on behalf of the Bank. However, there is no material to show as to how the Bank is entitled to recover any amount due to a Co-operative Society from the terminal benefits payable to the petitioner upon his superannuation. Moreover, it has been accepted that the amount

which has been frozen is sought to be recovered by the Bank on account of the dues which the Co-operative Societies claim to be outstanding against the petitioner.

6. Having heard learned counsel for the petitioner and going through the materials on record, the Court finds that the act of the Bank cannot be sustained. The petitioner may have been a loanee of the Co-operative Societies, but the same have distinct and separate identity than that of the Bank. Thus, the relationship of the petitioner and the Bank being that of an employee-employer, the same cannot be extended to the Co-operative Societies, as they are separate issues limited to the petitioner vis-à-vis the said Co-operative Societies. The petitioner having superannuated without there being any complaint or outstanding of the Bank against him, any dues of any other entity, including the Co-operative Societies, cannot be recovered from the dues the Bank owes to the petitioner upon his superannuation.

7. Accordingly, the writ petition succeeds. The impugned action of the Bank is held to be illegal and direction issued to release the amount the Bank has frozen of the petitioner forthwith, and in any case within one week from the date of production of a copy of this order before the competent authority of the Bank.

8. It goes without saying that with regard to any other

claim the petitioner may have with the Bank, he is at liberty to move before the appropriate authority/forum, in accordance with law.

(Ahsanuddin Amanullah, J.)

P. Kumar

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