

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20260 of 2016

Madhya Bihar Gramin Bank through Md. Salim, Sr. Manager Disciplinary Cell cum authorised representative, HO, Madhya Bihar Gramin Bank, Vishnu Commercial Complex, New Bye Pass Road, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Industrial Department, Patna
2. The Industrial Tribunal, Patna through its Presiding Officer, at Patna.
3. Sri Jitendra Prasad, S/o Late Ram Nandan Singh, Village Koral, PO and PS Deep Nagar, Biharsharif, Distt- Nalanda.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 2335 of 2017

Madhya Bihar Gramin Bank through Md. Salim, Sr. Manager Disciplinary Cell cum authorised representative, HO, Madhya Bihar Gramin Bank, Vishnu Commercial Complex, New Bye Pass Road, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Industrial Department, Patna
2. The Industrial Tribunal, Patna through its Presiding Officer, at Patna.
3. Sri Mahendra Kumar S/o Late Govind Sao, Mohalla Doctor's Colony, Khandakpar, Biharsharif, District Nalanda.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 20260 of 2016)

For the Petitioner/s : Sri Suresh Pd. Singh No. 1, Adv.
Kumari Rashmi, Adv.

For the Respondent/s : Mr.V.N. Sahay
Mr. Arun Shrivastava, Adv.
Mr. B. Jha, Adv.
Mr. Ravish Chandra, AC to SC 6

(In Civil Writ Jurisdiction Case No. 2335 of 2017)

For the Petitioner/s : Sri Suresh Pd. Singh No. 1, Adv.
Kumari Rashmi, Adv.

For the Respondent/s : Mr.V.N. Sahay
Mr. Arun Shrivastava, Adv.
Mr. B. Jha, Adv.
Mr. Ravish Chandra, AC to SC 6

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 18-06-2019

Heard learned counsel for the petitioner and learned
counsel for the State.



2. The similar issue is involved in both the writ applications and as such, both are being disposed of by a common order, for convenience, facts of C.W.J.C. No. 20260/2016 has been taken into consideration for adjudication of both cases.

3. In the present case, the petitioner-Bank is challenging the order dated 15th June 2016 (Annexure-9) passed in I.D. Case No.09 (C) of 2015 by which the Tribunal has passed the order for payment of wages 1/4th of the last monthly wage to the workman on month to month basis during the pendency and disposal of the case in the Tribunal.

4. The counsel for the petitioner submits that the worker Jitendra Prasad had committed misconduct by committing embezzlement of the Bank money, for that, he was departmentally proceeded and after full fledged proceeding, he has been removed from service. He approached the Appellate Authority without success. He raised industrial dispute but at the same time he approached the Tribunal directly and the same has been registered as I.D. Case No. 9 (C) of 2015, during pendency, he filed application for interim relief and the Tribunal vide order dated 15th June 2016 has given direction for payment of wages as stated herein above.



5. The learned counsel for the petitioner submits, for serious allegation of misconduct of embezzlement of bank money, the workman is also facing a criminal case, vide Sarmera P.S. Case No. 21 of 2012 under sections 409, 419, 420, 467, 468, 120B and 471 of the Indian Penal Code in which he has been granted bail, but the fact that he has been dismissed from service after the full fledged enquiry. The Tribunal has passed the order for interim relief without any basis and the reason which has been mentioned, is not sustainable in law as the Tribunal has not recorded necessary finding for grant of interim relief.

6. The learned counsel for the other side submits that the order of Tribunal cannot be enforced as it is not in the nature of interim Award, so no cause of action exists in favour of petitioner to challenge this order. The counsel for the other side may be right, as it is not in the shape of interim Award, but this interim relief, order standing and staring at the Bank.

7. This Court does not find that the Tribunal while passing the interim order, has recorded a *prima facie* case in favour of workman and without consideration of fact the workman has been removed on the serious charge of misappropriation of Bank money and that too after proper departmental enquiry.



8. In such view of the matter, Tribunal should not passed the order accordingly, the order dated 15th June 2016 is set aside and the court below is directed to proceed with the matter and decide the case in accordance with law within a period of six months from the date of receipt/production of a copy of this order. This Court is not giving any opinion on the merit of the case.

9. These applications are disposed of with the aforesaid direction.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22.06.2019
Transmission Date	N/A

