IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.642 of 2018
In
Civil Writ Jurisdiction Case No.18402 of 2017

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Ajit Kumar Pandit Son of Late Gurucharan Pandit Resident of Mohalla - Aliganj, P.O. P.S. - Banka, District - Banka, At present residing at Rani Kothi, Williams Tower Deoghar, P.S. - Deoghar, District - Deoghar Jharkhand.

... ... Appellant/s

Versus

1. The Chairman Cum M.D, Uco Bank, 10 B.T.M., Sarani, Kolkata-700001.
2. The State of Bihar through Home Secretary (Police) Patna, Bihar
3. The Superintendent of Police, Banka, District Banka.
4. The Investigating Office of Suiya Police Station, District Banka
5. The General Manager, UCO Bank, Personnel, Services Department, D.D. 3 and 4 Sector - 1, Salt Lake City, Kolkata-700064.
6. The Zonal Manager, UCO Bank, Zonal Office, S.K. Tarafdar, Adampur, Bhagalpur - 812001.
7. The Manager, UCO Bank, Suiya Branch, Banka-813106

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Rajendra Prasad, Sr. Advocate Mr.Pramod Kumar, Advocate Mr. Vinod Shanker Modi Mr. Manoj Kumar Singh
For the UCO Bank	:	Mr.Ranjeet Kumar Pandey, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 19-06-2019

Heard learned counsel for the appellant and learned counsel for the respondents.

The appellant was charged for embezzlement and was also subjected to criminal prosecution. The same is pending in which the investigating agency has indicated that the charge-sheet has been submitted.

Simultaneously, disciplinary proceedings were initiated against the appellant that has, during the pendency of this appeal, concluded in the passing of the punishment order communicated to the petitioner on 19th January, 2019 by which certain deductions have been directed to be made covering a span of 10 years.

Learned counsel submits that when the terminal benefits were claimed pursuant to the entitlement of the appellant, the appellant was informed that the same has been deposited in the bank account of the appellant. On enquiry, it was found that the said bank account had been directed to be frozen at the instance of the investigating agency in the criminal case. The result was that the amount, which was payable to the appellant by the bank, also became subject-matter of seizure in the same account which has been frozen in respect of the criminal case.

The contention is that the said amount which has been deposited in the bank account of the appellant, is admittedly, not the alleged embezzled amount and is an amount which the appellant is entitled to receive, but it is lying in the said account without being released in favour of the appellant.

The learned Single Judge dismissed the writ petition that since the issue of seizure or freezing of the account is a separate issue arising out of the criminal case, the Court will not go into this issue and has dismissed the writ petition whereafter the present appeal was filed in which a Division Bench of this Court, while entertaining the appeal, issued directions to implead the investigating officer and the agency carrying out the criminal investigation. A report has been submitted by the Superintendent of Police which has been sent and is placed on record through the Registrar General of this Court. The same indicates the submission of the charge-sheet.

The net result of this entire transaction is that the appellant, in effect, has been released payments by the bank, but the said payments are lying in the account which has been frozen by the investigating agency. The bank has further travelled a step ahead and has awarded a punishment order in disciplinary proceedings as referred to hereinabove.

The learned Single Judge has recorded a finding that the Bank has discharged its liability of having credited the admitted amount in the account of the petitioner. The learned

Single Judge having refused to implead the authorities including the Investigating Agency, a Division Bench of this Court on 18th July, 2018 directed the impleadment of the Investigating Agency and notices were issued for which steps were taken. The Office report indicates that notices have been served on the concerned official of the Investigating Agency. The report of the Investigation Agency has been sent through the Assistant Registrar of this Court and has been placed on record. The charge-sheet indicates the involvement of the applicant in the criminal case.

At the same time, the Bank itself has passed a punishment order on 19th January, 2019 ordering deductions to be made from the payments extended to the appellant. Thus, the Bank itself has found the appellant to be entitled to receive certain payments subject to the deductions made in the punishment order which is an event that has taken place during the pendency of this appeal. Consequently, we find that the same deserves to be implemented by the Bank as no such amount can be withheld in view of the law laid down in the case of **State of Jharkhand vs. Jitendra Kumar Srivastava** reported in **2013(12) SCC 210**.

So far as the seizure of the account is concerned, that will be subject to the criminal proceedings and any orders passed by the appropriate forum in this regard and, therefore, we are not required to pass any order in relation thereto, but at the same time, in view of the aforesaid facts and circumstances, the payment of the post retiral benefits, which cannot be withheld as indicated above and which is not even subject matter of seizure, deserves to be released in favour of the appellant.

We, accordingly, modify the impugned judgment of the learned Single Judge to the effect that a fresh calculation shall be made by the Bank after deducting the amount as per the punishment order dated 19th January, 2019 and the balance of the amount shall be paid to the appellant within a period of three months. We may mention that as per the charge-sheet, the account of the accused was directed to be seized up to the date of the lodging of the F.I.R. i.e., 20.10.2016 whereas the appellant had retired on 30th September, 2016. The disciplinary proceedings remained pending culminating in the order of the punishment dated 19th January, 2019.

The appeal stands disposed off subject to the above. In the event the appellant has questioned the correctness of the punishment order dated 19.01.2019, then any payments would also be subject to the outcome of the same.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Saif/-

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