IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24354 of 2019

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Ram Vilash Ram (Male), aged about 64 years, Son of Late Dhora Ram, Resident of Village and P.O.- Sahila Rampur, District- Muzaffarpur.

... ... Petitioner

Versus

The Chairman, Uttar Bihar Gramin Bank Head Office, Kalambagh Chowk, P.O. and P.S. Muzaffarpur, Pin 842001.

... ... Respondent

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Appearance :

For the Petitioner/s	:	Mr.Vijoy Nandan Sahay, Adv. Mr. Arun Srivastava, Adv.
For the Respondent/s	:	Mr.Prabhakar Jha, Adv. Mr. Amitesh Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 16-01-2020 Heard learned counsel for the petitioner and learned counsel for the Utttar Bihar Gramin Bank.

This writ application has been filed by the petitioner seeking direction to the respondent/Uttar Bihar Gramin Bank to allow him the benefit of pension with effect from 09.06.2016.

There are certain facts, which are undisputed. The petitioner had attained the age of superannuation on 31.08.2015 while working as an Officer, Scale-II in the Bank. Four days before he could attain the age of superannuation, a departmental proceeding was initiated against him with the issuance of chargesheet on 27.08.2015. Despite having attained the age of superannuation, he was treated to be in service only for the purpose of concluding the departmental proceeding initiated against him. The departmental proceeding culminated into passing of an order dated 09.06.2016, whereby punishment of dismissal from service came to be imposed on him. The said order has attained its finality.

It transpires that at the time of passing of the order of dismissal, there was no provision of pension under the Regulations governing the service conditions of the officers and employees of the Bank. It transpired that in exercise of powers, conferred by Section 30, read with sub-section(1) of Section 17 of the Regional Rural Banks Act, 1976, the Board of Directors of the Bank, after consultation with the Central Bank of India, being the sponsored Bank, and the Reserve Bank, with the previous sanction of the Central Government has framed regulations, called *'Uttar Bihar Gramin Bank(Employees') Pension Regulations, 2018'*, (herein after referred to as “the Pension Regulations") which was notified on 31.10.2018.

It is the petitioner's case that he received a communication dated 23.05.2019 made by the Regional Manager, Uttar Bihar Gramin Bank, Regional Office, Motihari, whereby the petitioner was informed that he had yet not deposited the employees contribution in the Provident Fund Account for the purpose of giving his option for getting pension under the said Pension Regulations. It is petitioner's further case that immediately thereafter he deposited a sum of Rs. 5,74,735/- in appropriate account for the purpose of exercising his option under the Regulation,2018, so as to avail the benefit of pension. The said amount of Rs.5,74,735/- has, however, been returned to the petitioner by the Bank with an information that he was not entitled to the pension under the Regulation, 2018 since he was dismissed from service.

Assailing the impugned action of the respondent, the present writ application has been filed.

Learned counsel appearing on behalf of the petitioner has submitted that Regulation,2018 can have prospective effect only so as to deny the benefits, which he was otherwise entitled to and by the said Regulation the petitioner's case for pension, can not be denied since the petitioner was dismissed from service in 2016.

Learned counsel appearing on behalf of the Bank, on the other hand, has relied upon an order of this Court dated 21.11.2019 passed in C.W.J.C.No.20345 of 2019 (Anil Kumar Vs. Utter Bihar Gramin Bank & Ors.) and has submitted that in view of clear language of Regulation, 20 of the said Pension Regulation,2018, the petitioner's case could not be considered for giving him the benefit of pension under Regulation, 2018.

Sri V.N.Sahay, learned counsel appearing on behalf of the petitioner can be correct in his submission that Regulation, 2018 will have prospective effect if it amounts to compulsorily taking away any legal right, which had already accrued to the petitioner, before coming into force of the Regulation. He has not been able to point out any provision, under which the petitioner was entitled for the monthly pension before the order of dismissal dated 09.06.2016 was passed. The pension under the said Regulation can be allowed only in accordance the provisions contained therein.

Regulation 20 of the said Regulation,2018, which is at the core of the issue reads as follows:

"20. Forfeiture of service.-

(1) Resignation not amounting to voluntary retirement or dismissal or removal or termination of an employee from the service of the Bank shall entail for forfeiture of his entire past service and consequently shall not qualify for pension under these regulations.

(2) An interruption in the service of an employee entails forfeiture of his past service, except in the following cases, namely:-

(a) authorised leave of absence;

(b) suspension, where it is immediately followed by reinstatement, whether in the same or a

different post, or where the employee dies or is permitted to retire or is retired under the provisions of the service Regulations while under suspension."

The petitioner being a dismissed employee could not be allowed the benefits under the General Regulation, 2018.

The respondent Bank has rightly refused to allow the petitioner pension under the Pension Regulations.

The writ application has no merit and is, accordingly, dismissed.

There shall be no orders as to costs.

(Chakradhari Sharan Singh, J.)

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