IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Writ Petition No. 8101 of 1996

Date of Decision : March 18th, 2020

Smt. Parvesh Sehgal

.... PETITIONER(S)

VERSUS

Punjab National Bank and others

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Atul Lakhanpal, Senior Advocate, with
Mr. R.S. Chahal, Advocate, for the petitioner.
Mr. P.S. Sobti, Advocate, for respondent No.1.
Mr. A.K. Khunger, Advocate, for respondent No.2.
None for respondents No.3 to 8.

...

Sanjay Kumar, J.

The petitioner is the widow of late S.K. Sehgal, a Branch Manager of the Punjab National Bank. By way of this writ petition, she seeks payment of the sum of ₹1,20,000/-, which was deducted by the Punjab National Bank from the salary of her husband while he was in service.

The case, as set out in the writ petition, is as follows: Earlier, the petitioner's husband was a Branch Manager in the service of the Hindustan Commercial Bank at Chandigarh. The said Bank was merged with the Punjab National Bank in the year 1986. Hindustan Commercial

Bank had executed a bank guarantee for a sum of ₹1,00,000/- on behalf of M/s Swaraj Singh and Associates, Hisar, in favour of the Haryana State Industrial Development Corporation in the year 1984. The bank guarantee was thereafter encashed by the Haryana State Industrial Development Corporation. One Sukhchain Singh had stood as guarantor for M/s Swaraj Singh and Associates and pledged 10 bearer bonds issued by the State Bank of India, Abohar Branch, District Ferozepur, of the face value of ₹10,000/- each, bearing Nos. A-321111 to A-321120. The bonds were to mature on 28.04.1991 and their maturity value was ₹1,20,000/-.

These bearer bonds were stolen while in the custody of the petitioner's husband and the same came to light on 23.01.1986. The petitioner's husband thereupon lodged a criminal complaint with the Police Station, Central Chandigarh, *vide* FIR No. 91 dated 27.02.1986. He also informed his superiors about the theft of the bonds apart from the State Bank of India, Abohar Branch, District Ferozepur, which had issued them. A Public Notice was also gotten issued by him in the Indian Express dated 02.04.1986 regarding the theft.

While so, the Punjab National Bank recovered the sum of ₹1,20,000/-, being the maturity value of the bearer bonds, from the petitioner's husband's salary from March, 1986, to March, 1991. In the meanwhile, the State Bank of India, Abohar Branch, informed the Punjab National Bank that the bearer bonds had been presented for payment. The petitioner's husband addressed letter dated 21.03.1991 asking the State Bank of India, Abohar Branch, not to make any payment as a criminal case had already been registered in relation to the theft of the bonds.

The petitioner's husband died in a road accident in January, 1992, while working as a Senior Manager of the Bank at Chandigarh.

It is in this factual milieu that the petitioner seeks payment of the amount withheld from her husband's salary.

The alleged transferees-in-interest of the subject bearer bonds were impleaded as respondents No.3 and 4 while the legal heirs of late Sukhchain Singh were shown as respondents No.5 to 8. However, they all have no role to play in the claim put forth by the petitioner. Further, Mr. Salil Bali, learned counsel, who entered appearance for respondent No.4 did not choose to appear at the hearing of this case while respondents No.3 and 8 did not enter appearance, despite service of notice. Respondents No.5 to 7 remain unserved but as this Court does not propose to offer any opinion on any issue relating to them, the same is of no consequence.

Be it noted that the Punjab National Bank filed Civil Suit No.179 of 13.09.1991/17.09.2002 before the learned Civil Judge (Junior Division), Chandigarh, for a mandatory injunction directing the State Bank of India, Abohar Branch, to make the payment due on the bearer bonds to it and not to the State Bank of Patiala, Mandi Gobindgarh Branch, through which they had been presented for payment by the alleged transferees-in-interest, or to any other person. The Punjab National Bank also sought a permanent injunction restraining the State Bank of India, Abohar Branch, from making such payment. However, by judgment and decree dated 21.08.2003, the trial Court dismissed this suit with costs. The record of the trial Court was called for and perusal of the judgment demonstrates that the dismissal of the suit was on the ground that the Punjab National Bank had failed to prove that the bonds in question had been pledged with it by Sukhchain Singh in connection with the bank guarantee executed on behalf of M/s Swaraj Singh and Associates.

The written statements filed by the Punjab National Bank and the State Bank of India are of no assistance at this stage, as they were filed during the pendency of the above civil suit. The short stand taken by them therein was that the result of the suit had to be awaited for further decision. Though Mr. P.S. Sobti and Mr. A.K. Khunger, learned counsel appearing for the banks presently, represented them in the civil suit also, they are not in a position to inform this Court as to whether any further appeal was preferred and if so, the result thereof. The finding recorded by the trial Court is therefore presumed to be holding the field as on date.

One crucial aspect, which is not in dispute, may be taken note of - Punjab National Bank never initiated any proceedings against the petitioner's husband before effecting recovery of monies from his salary. It is not the case of the Punjab National Bank, even at this stage, that it has any record of proceedings being initiated against him, whereby such recovery could have been legitimately made. It appears that this penal measure was resorted to without following the due procedure. In effect, the recovery was patently illegal, being without a valid and lawful basis.

Mr. A.K. Khunger, learned counsel for the State Bank of India, stated before this Court that his client would be willing to pay the amount due on the bearer bonds as per the direction of this Court.

However, in the light of the finding recorded by the trial Court in the suit judgment to the effect that the pledging of the surety bonds itself was not proved, it is not for this Court at this stage to grant any relief to the Punjab National Bank. It is for the Punjab National Bank to take necessary further steps if it is aggrieved by the findings recorded by the trial Court.

Be that as it may.

The only issue which confronts this Court at this moment is the petitioner's claim for payment of the sum of ₹1,20,000/- withheld from her husband's salary. Be it noted that the issue of limitation does not arise in this regard as the Punjab National Bank, even in its written statement filed in the present writ petition, did not deny the entitlement of the petitioner to such relief but only stated that the same would have to await the decision in the suit. What is of fatal import in this regard is the failure on the part of the Punjab National Bank to adhere to the due procedure while effecting recoveries from the petitioner's husband's salary. Without taking steps in strict accordance with the rules prescribed in this regard, the Bank ought not to have straightway deducted this amount from his salary over a period of six years. When the recovery itself was illegal in its very inception, the question of linking the same with the Punjab National Bank's optimistic hope of encashment of the bearer bonds does not arise. Further, as the Punjab National Bank itself had the benefit of retaining this amount all through and as it suffered an adverse judgment in the civil suit and seems to have allowed it to attain finality, the liability to bear the interest burden on such illegal withholding of the amount would rest squarely upon it. The petitioner would necessarily have to be recompensed for this wrongful deprivation of her lawful dues.

Though Mr. P.S. Sobti, learned counsel for the Punjab National Bank, contended that it is the State Bank of India which should bear the interest burden as it never paid the amount due on the bearer bonds, this Court finds no merit in this submission in view of the findings recorded by the trial Court in the suit judgment.

On the above analysis, the writ petition is allowed directing the Punjab National Bank to release the amount of ₹1,20,000/- withheld from the petitioner's husband's salary, with interest thereon at 6% per annum. This amount shall be remitted to the petitioner expeditiously and in any event, not later than four weeks from the date of receipt of a copy of this order.

There shall be no order as to costs.

March 18th, 2020 (Sanjay Kumar)
Kang Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No