**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**Civil Writ Jurisdiction Case No.5179 of 2020**

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Dwarika Singh, S/o Late Suraj Singh, Resident of Village and Post Sarthua, P.S. Udwant Nagar, District- Bhojpur, Bihar 802206.

... ... Petitioner/s

Versus

1. The Zonal Manager, Punjab National Bank, R. Block, 2nd Floor, Near Chankya Hotel, Veer Chand Patel Path, Patna Bihar 800001.
2. The Regional Manager, Punjab National Bank, R Block, 2nd Floor, Near Chankya Hotel, Veer Chand Patel Path, Patna Bihar 800001.
3. The Chief Manager, Punjab National Bank, CPPC, Kameshwar Complex, Exhibition Road, Patna.
4. The Chief Manager, Punjab National Bank, Circle Office, Arrah Hotal Rigal, East Ramana Road, District Bhojpur.
5. The Branch Manager, Punjab National Bank, Piania Branch, Ara, District- Bhojpur, Pin Code 802301

... ... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Niraj Kumar, Advocate
For the Respondent/s : Mr. Kumar Priya Ranjan, Advocate

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**
**ORAL JUDGMENT**
**Date : 15-03-2021**

Heard learned counsel for the petitioner and the respondents.

2. Learned counsel for the petitioner submits that the petitioner is entitled to the benefit of Central Dearness Allowance and interest on delayed payment. He submits that the Apex Court has occasion to decide the issue involved in the present writ application in the case of **Union of India & Ano. Vs. P. N. Natarajan & Ors.**, reported in **(2010) 12 SCC 405**.

3. Mr. Kumar Priya Ranjan, learned counsel for the Bank submits that the Bank is considering the case of the

petitioner and appropriate decision may be taken in accordance with law at the earliest.

4. The Apex Court noticing the bipartite settlement held out as follows:

> "14. We may now advert to the bipartite settlement on which reliance has been placed by the Appellants to justify the directive given by the Central Government for adverse revision of the retiral dues payable to the Respondents. Para 7.1 of the memorandum of settlement, the extracts of which have been placed before this Court in the form of Annexure R-4 read as under:
>
> "*Pension*: In the case of Food Transferee Employees who have opted Section 12-A of the Food Corporation Act, 1964 to be governed by the Pension Rules of the Central Government as amended from time to time, Pension shall be worked out as under:
>
> (*i*) For those retiring during the period $1^{st}$ August 1983 to $30^{th}$ March, 1985, emoluments for purposes of working out pension will be the pay in the revised scale.
>
> In the case of persons retiring prior to $31^{st}$ May, 1984 emoluments for the period prior to $1^{st}$ August 1983 shall be the emoluments which would have been taken into account for the purpose of pension as per the then existing orders.
>
> (*ii*) For those retiring during the period $31^{st}$ March, 1985 to $31^{st}$ December, 1985 emoluments for purposes of pension will be pay in the revised scale and Industrial DA as admissible in FCI on $1^{st}$ November, 1984.
>
> In the case of persons retiring prior to $31^{st}$ December, 1985 emoluments for the period prior to $31^{st}$ March, 1985 shall be the

emoluments which would have been taken into account for the purpose of pension as at Senior (*i*) above.

(*iii*) For those retiring during the period 1st Jan.,1986 to 31st July, 1987 pension shall be worked out with reference to emoluments for purposes of pension as shown in Col. 4 and Col. 5 of Annexures 17 to 28, whichever is more.

In the case of persons retiring prior to 31st Oct., 1986 emoluments for the period prior to 1st Jan.,1986 shall be the emoluments which would have been taken into account for the purpose of pension as at Senior No. (*ii*) above.

15. A perusal of what has been reproduced above makes it clear that the settlement was applicable to the employees retiring between 1-8-1983 and 31-7-1987. None of the private Respondents is shown to have retired during that period. Therefore, the terms of settlement cannot be invoked by the Appellants to justify reduction of the retiral benefits payable to them.

16. A reading of the consequential order dated 18-7-1990 (Annexure R-6) issued by the Government of India does give an impression that the settlement is applicable to employees like the private Respondents but, in our view, the same cannot be relied upon for the purpose of supporting the directive given for revising/reducing retiral benefits payable to the private Respondents because the Central Government is not bestowed with the power to amend, alter or revise the terms of bipartite settlement.

17. Even if the memorandum of settlement is held applicable to other employees of the Corporation, the same cannot adversely affect the option exercised by the private Respondents in terms of Sections 12A(4)(*a*) and (*b*) read with Section 12A(4C) of the Act. It has neither been suggested on behalf of the Appellants

nor can it be laid down as a proposition of law that the bipartite settlement arrived at between the Unions of the employees and the Management of the Corporation could take away the right acquired by the Respondents as a sequel to exercise of option in terms of Section 12A(4)(*b*).

18. The judgment on which reliance has been placed by Shri Srivastava has no bearing on the issue raised in these appeals because in that case the Court was not called upon to decide whether the Central Government can pass an order or issue a directive adversely affecting the statutory option exercised by the employees."

5. In view of the above, the present writ application is disposed of with a direction to the respondents to grant all benefits to the petitioner in terms of the Apex Court judgment, reported in **(2010) 12 SCC 405**, at the earliest preferably within a period of three months from the date of receipt/production of a copy of this order.

**(Anil Kumar Upadhyay, J)**

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| **AFR/NAFR** | NAFR |
| **CAV DATE** | NA |
| **Uploading Date** | 19.03.2021 |
| **Transmission Date** | NA |