

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6101 of 2021

Punjab National Bank through the Senior Manager HRD, Circle Office Darbhanga. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Darbhanga.
2. Naveen Kumar Son of Late Raghunath Prasad Sharma Resident of Bahadurpur Ward Number 22, P.S.- Town Samastipur. Respondent/s

Appearance :

For the Petitioner/s : Mr. Suresh Pd Singh No.1, Advocate
For the Respondent/s : Mr. Lalit Kishore (AG)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 07-02-2022

This matter is heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 Pandemic.

Learned State counsel accepts notice for respondent.

Learned counsel for the petitioner is hereby directed to furnish a copy of the petition to learned counsel for the State if it has not already furnished.

Service of notice to second respondent-Naveen Kumar is dispensed with since no adverse order is passed against him.

In the instant petition, petitioner has prayed for the following relief(s):-

“(i) For allowing the petitioner bank to proceed and conclude the departmental proceeding pending since 2004 against the Res. No.2 in which despite serving memo of charge, appointing PO and E0, initiated for serious misconducts, till date proceeding is pending, due to the order dated 26.07.2004 passed by this Hon'ble court



in CWJC No. 15551/2004 by Hon'ble Mr. Justice A.K. Tripathi, whereby the Bank is directed to stay proceeding till outcome of criminal trial wherein charge was framed on 2.12.2003 itself in Tajpur (Wani) PS. case No. 226/2001, GR number 1267 of 2001 (State Vs. Naveen Kumar) in which bank is informant, but taking advantage of the order dated 26.07.2004 till date Respondent No.2 is playing dilatory tactic, as a result the Criminal case is yet pending and bank is compelled to pay salary till date to him, which leads anarchy among such erring bank officials, although as per the mandate of Hon'ble Apex in "Asian Resurfacing of Road Agency Pvt. Ltd & Ors. Vs. C.B.I.",) the said stay may be vacated, will come to an end on expiry of six months from the date of such order of stay unless similar extension is granted by a speaking order, but in the instant case it is unfortunate as despite framing of charge on 2.12.2003, till date the trial is pending by one pretext to another, which is established the legal maxim Justice delayed is justice denied, and thus in the interest of justice the Hon' ble high court, Patna may either permit the bank to proceed with departmental enquiry by modifying the order dt. 26.07.2007 or may direct the court the court below to conclude the trial of the case countering dilatory tactic of the accused and proceed on day to day basis, so that the bank may proceed with the Departmental Proceeding for coming to the logical conclusion of the charges, as the matter pertains to gross financial misconduct, and if no action on the charges be taken, it will lead indiscipline among the other erring employee of the bank, which may develop anarchy in the institution, as more than



16 years the departmental proceeding is kept in abeyance which is improper, thus appropriate orders may be passed taking into consideration the facts and circumstances involved in the case.

(ii) For granting any relief or reliefs for which the petitioner be found in title in the eye of law.”

On 26.07.2007 in CWJC No. 15551/2004, the following order was passed:-

“Petitioner has approached this High Court with a very limited prayer. His submission is that in terms of bipartite settlement, the Bank does not have the authority to initiate a departmental enquiry in a case in which criminal proceeding has been initiated. Admitted position is that a police case was instituted against the petitioner in the year 2001.

Though the legal position is that as such there is no bar to initiation of a departmental proceeding in which a criminal case has been instituted. However, since the Bank and its employees have entered into settlement in this regard, the same will have to be honoured. This writ application is, accordingly, disposed of with a direction to the respondents that they will abide by the agreement which they have entered in this regard and proceed with the departmental enquiry so long a decision in the criminal case is awaited. It will be open to the authorities to take decision with regard to the departmental proceeding after disposal of the case. This writ application stands



disposed of with the above direction.”

The petitioner-bank has not preferred any application for modification of the order dated 26.07.2007 passed in the aforesaid CWJC so also not preferred LPA. They are unnecessary waiting for the outcome of the criminal proceedings. Due to delay in conclusion of criminal proceedings the present petition is presented by the petitioner stating that the respondent is being paid salary and other benefits. It is further submitted that the Courts have time and again held that the criminal proceedings is initiated for the offence under Indian Penal Code whereas disciplinary proceedings is initiated for misconduct. They are two different proceedings, therefore, Annexure-4 is coming in the way of proceeding in a disciplinary proceedings. If it is so the petitioner has remedy in seeking modification of the order dated 26.07.2007 passed in CWJC No. 15551 of 2004 or invoking LPA and in not filing the present petition.

Accordingly, the present petition filed by the petitioner is hereby disposed of reserving liberty to the petitioner to invoke appropriate remedy.

Vikash/-

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

(P. B. Bajanthri, J)

