

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4697 of 2021

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Girindra Chandra Pathak Son of Late Kanhai Dutt Pathak Resident of Village/Mohalla- Adarsh Nagar (Puraniganj), P.s.- Kasim Bazar, District-Munger, Pin Code-811201 (Bihar)

... .. Petitioner/s

Versus

1. The Union of India through its Secretary, Ministry of Finance, Department of Financial Services, RRB Sectio, Banking Division, Jeevan Deep Building, 3rd Floor, Parliament Street, New Delhi- 110001
2. National Bank of Agriculture and Rural Development (NABARD) through its Chief General Manager having its Head office at - Plot no. C-24, G-Block, Bandra Kurla Complex, BKC Road, Bandra East, Mumbai, Maharashtra, Pin Code-400051
3. Punjab National Bank (PNB) through its Chief Managing Director having its head office at plat no. 4, Sector-10, Dwarka, New Delhi-110075
4. Dakshin Bihar Grameen Bank through its Chairman having its office at Shri Vishnu Commercial Complex, NH-30, New Bypass, Near B.P. Highway Services Petrol Pump, Ashochak, Patna-800016 (Bihar)
5. Board of Directors, Dakshin Bihar Grameen Bank through its Chairman having its Office at Shri Vishnu Commercial Complex, NH-30, New Bypass, Near B.P. Highway Services Petrol Pump, Ashochak, Patna, 800016 (Bihar)
6. The Chairman, Dakshin Bihar Grameen Bank having its Office at Shri Vishnu Commercial Complex, NH-30, New Bypass, Near B.P. Highway Services Petrol Pump, Ashochak, Patna, 800016 (Bihar)
7. The General Manager (HRD/Pension), Dakshin Bihar Grameen Bank having its Office at Shri Vishnu Commercial Complex, NH-30, New Bypass, Near B.P. Highway Services Petrol Pump, Ashochak, Patna, 800016 (Bihar)
8. The Chief Manager, Pension Cell, Dakshin Bihar Grameen Bank having its Office at Shri Vishnu Commercial Complex, NH-30, New Bypass, Near B.P. Highway Services Petrol Pump, Ashochak, Patna, 800016 (Bihar)

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Jai Prakash Singh, Advocate Mr. Harendra Singh, Advocate
For the DBGB	:	Mr. M.N. Parbat, Sr. Advocate Mr. Praveen Prabhakar, Advocate
For the NABARD	:	Mr. Siddhartha Prasad, Advocate Mr. Sunit Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 02-11-2023

Heard Mr. Jai Prakash Singh, learned counsel



appearing on behalf of the petitioner; Mr. M.N. Parbat, learned senior counsel assisted by Mr. Praveen Prabhakar, learned counsel appearing on behalf of the Dakshin Bihar Gramin Bank and Mr. Siddhartha Prasad, learned counsel for the Nabard.

2. This order is being passed in continuation of order dated 10.10.2023 and 12.10.2023, pursuant to which the Branch Manager posted at the relevant point of time including the present Branch Manager have submitted a comparative analysis of internal audit report, on which basis, disciplinary action was taken against the petitioner to verify as to whether any irregularity which can well be rectified treating it to be a procedural one within a period of three months as per the several circulars of the Bank as informed by the law officer of the Bank Mr. Navin Kumar.

3. This Court finds that no such consideration was given to the petitioner, it would be proper to not to give effect to the order dated 02.07.2019, by which application of the petitioner for grant of pensionary benefits has been rejected and it is hereby held to be inoperative. The Chief Engineer, Pension Cell Head Office, Patna, is directed to consider the case of the petitioner on the basis of the comparative analysis of internal audit report of the petitioner, as well as, the present Branch



Manager, in whose case also the audit which has been conducted on 19.02.2022, certain irregularities have been pointed out by the audit team. The comparative analysis chart is silent with respect to column no. 18 to the present Branch Manager, who has informed this Court that the branch power to open KCC account has been seized but such decision taken by the Secretary of the Dakshin Bihar Gramin Bank has not been mentioned in the comparative chart. This Court finds that certain KCC has been opened and lapses have been found by the audit team which relates to fraudulent withdrawal of certain amount on the basis of certain allegations, however, according to the pleadings of the writ petition, no opportunity was provided to the petitioner to clarify himself or to meet those irregularities by correcting and satisfying the authorities within a period of three months as provided.

5. Similarly, this Court finds that allegation has been made that thumb impression on the application and the document executed differs but no evidence with respect to report of the forensic science laboratory or handwriting expert has been taken before making such allegation and imposing penalty against the petitioner and misappropriation of fund of Rs. 2,05,68,066/- to have been swindled by the petitioner is also



surprising that such large scale fraud has been committed by the petitioner without participation of other officials, however, high position they may be holding.

6. It is well settled principle of law that pension is not a bounty rather a property in accordance with Article 300(A) of the Constitution of India. The matter is remanded back to the General Manager, Dakshin Bihar Gramin Bank, who will provide petitioner an opportunity of hearing, as well as, resort to verify from the records, as to whether, the irregularities which have been pointed out by the internal auditor in internal audit dated 10.05.2022 and 17.12.2022 with respect to the present Branch Managers of the Kajra Branch and Lakhisarai Branch respectively, has been rectified by him within the specified period of three months or not.

7. In case that still exist, the concerned authority is first required to give reason as to why in spite of the audit team having detected or reported, which is a public document any step has not been taken by the higher authorities of the Bank. This Court finds that there is nexus between the higher authority of the Bank and Branch Manager of the branches including clerk, who were indulged in large scale misappropriation of public money of the bank in an organized manner starting from



the period the same was detected in this particular writ petition till the year 2023.

8. Accordingly, the present writ petition is disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	
CAV DATE	
Uploading Date	07.11.2023
Transmission Date	

