

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3511 of 2023

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Bachchi Devi W/o Late Harendra Nath Jha Resident of Village and Post
Parsarma, P.S. and District-Supaul, State-Bihar, PIN-852130.

... .. Petitioner/s

Versus

1. Union of India through its Secretary, Ministry of Finance, department of Financial Service, RRB Section, Banking Division, Jeevan Deep Building, 3rd Floor, Parliament Street, New Delhi-110001.
2. national Bank for Agriculture and Rural Development (NABARD) through its Chief General Manager Having its Head Office At Chief General Manager Having its Head Office At Plot C-24, G Block, Bandra Kurla Complex BKC Road, Bandra East, Mumbai Maharashtra-400051
3. Central Bank of India through its CMD Having Its head Office at Chandr Mukhi, Narman Point, Mumbai, 400021.
4. The Zonal Manager, Central Bank of India, having its Office at Block-B 2nd Floor, Maurya Lok Complex, Dak Bangla Road, Patna-800001.
5. The Regional Manager, Central Bank of India, Regional Office Saharsa, Bihar.
6. Uttar Bihar Gramin Bank, through its Chairman, having its Office at Kalambagh, Chouk, Muzaffarpur, Bihar PIN-842001.
7. Board of Directors, Uttar Bihar Gramin Bank, through its Chairman having its Office at Kalambagh, Chouk, Muzaffarpur, Bihar PIN-842001.
8. The Chairman Uttar Bihar Gramin Bank, having its Office at Kalambagh, Chouk, Muzaffarpur, Bihar PIN-842001.
9. The General Manager Uttar Bihar Gramin Bank, having its Office at Kalambagh, Chouk, Muzaffarpur, Bihar PIN-842001.
10. Chief Manager Pension Cell Uttar Bihar Gramin Bank, having its Office at Kalambagh, Chouk, Muzaffarpur, Bihar PIN-842001.
11. The Regional Manager Koshi Kshetriya Gramin Bank having it Office at Srinagar Hata, Kosi Colony, Purnea, 854301.
12. The Regional Manager Uttar Bihar Gramin Bank, having its Office Deo Market, Purab Bazar, Saharsa (Bihar) 852201
13. The Branch Manager, Uttar Bihar Gramin Bank, Branch, Purab Bazar, Saharsa, (Bihar) PIn 852201.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rahul Jha, Advocate Mr. Ranjit Jha, Advocate
For the Bank	:	Mr. Prabhakar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH



ORAL ORDER

2 20-07-2023 Heard Mr. Rahul Jha, learned counsel appearing on behalf of the petitioner and Mr. Prabhakar Jha, learned counsel for the respondent/s.

2. Petitioner is aggrieved by recovery of Pay Protection Allowances (PPA), which was granted to her in the year 2002 as would reflect from Annexure-2, a Letter No. BR/PB/2021-22/10 dated 31.05.2021 issued by the Branch Manager, Branch Office, Purab Bazar, Saharsa by which the Branch Manager has communicated to the petitioner that the same has been incorrectly given to her in the year 2002 onwards. No price index or inflation rate has been mentioned in the said letter in support of the direction. The record reveals that petitioner had not replied to the said letter and admittedly the deductions were made from her account.

3. For granting benefit of Pay Protection Allowance (PPA) to the employees of Kosi Kshetriya Gramin Bank, Branch Saharsa, the Bank resolved to grant the benefit in accordance with the judgment passed by the Apex Court and the direction of Government of India contained in Letter No. F.No.7/(5) 95-RRB dated 17.04.2002.

4. The similarly situated employees of the bank mainly Class III and Class IV had approached this Court for



accepting the recommendation of the Fitment Committee for giving benefit of Pay Protection Allowances to the employees of the bank in question.

5. The claim of the petitioner was considered by the Division Bench of this Court in batch of cases filed before this Court in Letters Patent Appeal No. 227 of 2003 and analogous appeal, in which *inter alia*, following directions were issued:

“ We accept the argument advanced by learned counsel appearing on behalf of the appellants that they are entitled for refund of recovery which was effected in 36 equal installments. Accordingly, we are of the opinion that a direction may be issued to the Bank to refund the recovered amount preferably within 20 equal installments from the date of receipt of a copy of this order. With regard to the latest communication which was appended by way of show cause filed on behalf of the respondent-Bank, stating that, the arrears of the salary would be payable to them w.e.f. 01.04.2011, we are not inclined to go into the merits of that Resolution dated 29.06.2011 annexed by the Bank with the show cause. If any of the parties are still aggrieved they can agitate their rights before the appropriate forum.”

6. Mr. Prabhakar Jha, learned counsel for the respondent/s has raised preliminary objection with respect to the maintainability of the present writ petition, considering the fact that the petitioner was already communicated by the Branch Manager of the Bank as contained in ‘Annexure-3’, a



communication dated 08.06.2021. The petitioner had retired on 08.05.2021.

7. This Court finds that the present writ petition has been filed after much delay and latches, however, considering that the similarly situated employees of the Bank had approached this Court just after the Bank has taken steps to recover from Pay Protection Allowances (PPA) have been granted relief and taking into consideration the scheme to be beneficial in nature and the petitioner being retired employee must not suffer for any wrong advice given to her and the justice requires that the writ petition be not dismissed on the ground of delay and latches.

8. Law is well settled that the condonation of delay where it is not satisfactorily explained and equity requires interference of the Writ Court, then the Court can consider the writ on merits. In this regard, reliance can be placed on the judgment of the Apex Court in *Vetindia Pharmaceuticals Limited v. State of Uttar Pradesh and Another* reported in **(2021) 1 SCC 804**. The relevant paragraph has been reproduced herein below:

“ 15. That brings us to the question of delay. There is no doubt that the High Court in its discretionary jurisdiction may decline to exercise the discretionary writ jurisdiction on the ground



of delay in approaching the court. But it is only a rule of discretion by exercise of self-restraint evolved by the court in exercise of the discretionary equitable jurisdiction and not a mandatory requirement that every delayed petition must be dismissed on the ground of delay. The Limitation Act stricto sensu does not apply to the writ jurisdiction. The discretion vested in the court under Article 226 of the Constitution therefore has to be a judicious exercise of the discretion after considering all pros and cons of the matter, including the nature of the dispute, the explanation for the delay, whether any third-party rights have intervened, etc. The jurisdiction under Article 226 being equitable in nature, questions of proportionality in considering whether the impugned order merits interference or not in exercise of the discretionary jurisdiction will also arise. This Court in Basanti Prasad v. Bihar School Examination Board [Basanti Prasad v. Bihar School Examination Board, (2009) 6 SCC 791 : (2009) 2 SCC (L&S) 252] , after referring to Moon Mills Ltd. v. M.R. Meher [Moon Mills Ltd. v. M.R. Meher, AIR 1967 SC 1450] , Maharashtra SRTC v. Balwant Regular Motor Service [Maharashtra SRTC v. Balwant Regular Motor Service, (1969) 1 SCR 808 : AIR 1969 SC 329] and State of M.P. v. Nandlal Jaiswal [State of M.P. v. Nandlal Jaiswal, (1986) 4 SCC 566] , held that if the delay is properly explained and no third-party rights are being affected, the writ court under Article 226 of the Constitution may condone the delay, holding as follows : (Basanti Prasad case [Basanti Prasad v. Bihar School Examination Board, (2009) 6 SCC 791 : (2009) 2 SCC (L&S) 252] , SCC p. 796, para 18)

“18. In the normal course, we would not have taken exception to the order passed by the High Court. They are justified in saying that a delinquent employee should not be permitted to revive the stale claim and the High Court in exercise of its discretion would not ordinarily assist the tardy and indolent person. This is the traditional view and is well supported by a



plethora of decisions of this Court. This Court also has taken the view that there is no inviolable rule, that, whenever there is delay the Court must refuse to entertain a petition. This Court has stated that the writ court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution may condone the delay in filing the petition, if the delay is satisfactorily explained.”

9. Considering the fact that the employees have not misrepresented or misinterpreted in any manner rather the Bank had misinterpreted the order passed by the writ Court in C.W.J.C No. 10727 of 1993.

10. Admittedly in the present case, the benefit which has accrued as on account of the beneficial scheme which resulted into the upgradation of pension of the petitioner, the same cannot be recovered considering the fact that any benefit which has accrued to the petitioner is not on account of any fresh appointment.

11. Accordingly, the present writ petition is allowed.

(Purnendu Singh, J)

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