IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6894 of 2016

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Chandra Shekhar son of Late Khoshi Chand Prasad, Resident of village Tungi, P.O. Tungi, P.S. Dipnagar, District- Nalanda

... ... Petitioner/s

Versus

1. The Central Bank of India through Chiarman, Chandra Mukh, Nariman Point, Mumbai, State of Maharashtra.
2. The Field General Manager, Central Bank of India, Zonal Office, Morya Lok Complex, Patna- 800001
3. The Deputy General Manager, Central Bank of India, Zonal Office, Patna
4. The Regional Manager, Central Bank of India, Regional Office Gaya, Dist. Gaya
5. The Regional Manager, Central Bank of India, Regional Office, Patna

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dinu Kumar, Advocate.
		Ms. Himja Gautam Singh, Advocate.
		Ms. Rupali, Advocate.
For the Respondent/s	:	Mr.Ajay Kumar Sinha, Advocate.
		Mr. Ajit Kumar Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT
Date : 08-08-2024

Heard Mr. Dinu Kumar, learned counsel along with Ms. Himja Gautam Singh and Ms. Rupali, learned counsels for the petitioner and Mr. Ajay Kumar Sinha, learned counsel along with Mr. Ajit Kumar Sinha, learned counsel for the respondent-Bank.

2. The petitioner has sought for the following reliefs, as prayed for in Para-1 of the writ petition, which are, *inter alia,* reproduced hereinafter:

> *"(i) For quashing an order dated 20.7.2015 passed by the Deputy General Manager, Central Bank of India, Zonal Office, Patna in capacity of Appellate*

Authority as contained in Annexure- 21 by which appeal filed by the petitioner has been dismissed and punishment awarded on 31.3.2015 as contained in Annexure-19 in disciplinary proceeding has been confirmed.

(ii) For quashing of the order dated 31.3.2015 as contained in Annexure-19 issued under the signature of Regional Manager, regional Office, Gaya, Central Bank of India, Gaya by which the petitioner has been awarded punishment of compulsory retirement in terms of Regulation 4(h) of Central Bank of India Officer Employees' (Disciplinary & Appeal) Regulation, 1976.

(iii) For a direction to not give effect of the order dated 31.3.2015 (Annexure-19) and 20.7.2015 (Annexure-21) in any manner against the petitioner in payment of retirement benefit and other monetary benefit which are payable to the petitioner after awarding punishment of compulsory retirement which is not being paid to the petitioner.

(iv) For declaring the petitioner is entitled to get all benefits for which the petitioner is entitled after compulsory retirement as if no punishment order as contained in Annexure-19 & 21 has been awarded in terms of Regulation 4(h) of the Central Bank of India Officer Employee (Discipline & Appeal) Rules, 1976.

(v) For direction to the respondents to ensure payment of gratuity, leave encashment, 1/3 commutation of pension and arrear of pension for the period September, 2014 to May, 2015 after deducting the provisional pension paid to the petitioner with interest at the rate of 12.5% per annum and other monetary benefit for which the petitioner is entitled in law.

(vi) For grant for any other relief/reliefs which the petitioner may be found deemed entitled to in the facts and circumstances of the case."

3. Mr. Dinu Kumar, learned counsel assisted by Ms. Himja Gautam Singh, learned counsel, at the outset, submits that the order of penalty (Annexure-19) dated 31.03.2015 in respect of 'compulsory retirement' awarded in terms of Regulation 4(h) of the Central Bank of India Officer Employee (Discipline & Appeal) Rules, 1976, as amended up-to-date, is only required to be interfered in respect of fixation of pension of the petitioner in accordance with Regulation 33 to

the extent that the petitioner without having been given any opportunity of hearing on the quantum of punishment in complete denial of principle of natural justice has fixed 2/3rd pension in place of full pension admissible to him on the date of his compulsory retirement. Learned counsel further submitted that withholding of gratuity till date is also uncalled for action on the part of the respondent no.1.

4. Per contra, Mr. Ajay Kumar Sinha, learned counsel along with Mr. Ajit Kumar Sinha, learned counsel appearing on behalf of the respondent – Bank submits that the order of penalty, as well as, fixation of pension of the petitioner cannot be interfered with as the petitioner has not made out any case before this Court to reconsider the penalty order in absence of any irregularity in the departmental proceeding. He, however, submits that so far as the grievance of the petitioner that before imposition of penalty of compulsory retirement, he was denied the opportunity of hearing in respect of quantum of punishment leading to fixation of less pension, cannot be interfered.

5. Considering the rival submissions made on behalf of the parties and having perused the record, I find that the vital right of the petitioner is affected. Before fixing the pension of the petitioner, the petitioner was required to be given

opportunity of hearing to place his case.

6. I find it proper to reproduce the Regulation 33 of the Central Bank (Employees) Pension Regulations, 1995:

"33. Compulsory Retirement Pension.-

> *(1) An employee compulsorily retired from service as a penalty on or after 1st day of November, 1993 in terms of Discipline and Appeal Regulations or Settlement by the authority higher than the authority competent to impose such penalty may be granted pension at a rate not less than two-thirds and not more than full pension admissible to him on the date of his compulsory retirement if otherwise he was entitled to such pension on superannuation on that date.*
>
> *(2) whenever in the case of a bank employee the Competent Authority passes an order (whether original, appellate or in exercise of power of review) awarding a pension less than the full compensation pension admissible under these regulations, the Board of Directors shall be consulted before such order is passed.*
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> *(3) A pension granted or awarded under sub-regulation (1) or, as the case may be, under sub-regulation (2), shall not be less than the amount of rupees three hundred and seventy five per mensem."*

7. I don't find to interfere with the penalty order which has been affirmed by the appellate authority, however, so far as the pension of the petitioner is concerned, petitioner may file a detailed representation before the appropriate authority who shall consider the grievance of the petitioner in accordance with law considering the fact that pension is not a bounty and it is a property, as held in the case of **D. S. Nakara & Ors. Vs. Union of India, reported in (1983) 1 SCC 305,** which has further been reiterated in the case of **State of Jharkhand & Ors. Vs. Jitendra Kumar Srivastava & Anr.,** reported in **(2013) 12 SCC 210**.

8. The gratuity is part of the pension and same shall not be withheld and in this regard, the petitioner has submitted that he will apply before the appropriate authority to release the amount of gratuity forthwith. At the same time, I find it proper that the interest accrued on account of delayed payment of gratuity to which the petitioner is entitled must also be paid at the rate of statutory interest applicable as per the Regulation.

9. The aforesaid exercise is required to be completed expeditiously considering the fact that the petitioner has retired on 31.08.2014.

10. In case the petitioner is aggrieved by any inaction on the part of the concerned authority, he may take action against him in accordance with law.

11. The writ petition stands disposed of. The interlocutory applications, if any, shall also stand disposed of.

12. There shall be no order as to costs.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	19.08.2024
Transmission Date	N.A.