

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8338 of 2021

1. Senior Branch Manager, Bank of India Triveni Apartment, Khalifa Bagh Chowk, Bhagalpur.
2. Senior Branch Manager, Bank of India, Devdoot Complex, Radha Rani Sinha Road, Adampur, Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar Department of Labour, Govt. of Bihar through its Secretary.
2. The Presiding Officer, Labour Court, Bhagalpur.
3. Baijnath Adhiklal Sharma @ Baidyanath Sharma, Son of Late Adhiklal Thakur, Resident of Sanhauli, P.O.- Kahua, P.S. Sangrampur, District - Munger.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Sinha, Sr. Adv.
	:	Mr. Ajit Kumar Sinha, Adv.
	:	Ms. Dilkash Khan, Adv.
For the State	:	Mr. Shri Nandan Nayan, Adv.

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL JUDGMENT

Date : 01-05-2024

Heard the learned counsel for the parties.

The present writ petition has been filed for the following reliefs:-

“(i). For issuance of appropriate writ/order/direction for quashing judgment/order dated 15.11.2019 passed by the respondent No. 2 (Annexure-P/10) by which the learned Labour Court, Bhagalpur has directed the Bank of India to pay within 30 days from the date of order all retiral benefits, gratuity, bonus, GPF/EPF etc. with 12% interest and pay pension and other benefits as per rules till he(petitioner) is alive.



(ii). For issuance of other appropriate writ/direction/order which the petitioner in the facts and circumstances of this case be found entitled to."

3. Learned counsel for the petitioners has assailed the order dated 15.11.2019 passed by the Labour Court, Bhagalpur in favour of the respondent No. 3 herein. Learned counsel has assailed the said order on the ground that the Labour Court without having the jurisdiction and after lapse of more than 18 years has passed the order directing the payment of the compensation to the respondent No. 3 without there being any iota of evidence. Learned counsel has further stated that the respondent No. 3 was initially appointed in the year 1983 as an armed guard in one of the branches of the Bank. That in the year 1994 a mishap took place in the premises one of the branches wherein the respondent No. 3 was injured. Though, the respondent No. 3 was given the necessary treatment, he was unable to discharge his duties and he voluntarily gave his resignation to this post on 22.09.1994 with a request to adjust his retirement benefits/provident fund/gratuity against the outstanding amount. Thereafter, on 01.10.1994, the wife of the respondent No. 3 informed the bank authorities that respondent No. 3 without informing anybody has left the house. That the resignation submitted by



the respondent No. 3 was processed and accepted by the Bank on 18.10.1994. That the respondent No. 3 on 20.10.1994 has again approached the Bank with a request to rejoin and seeking to withdraw the resignation. However, the said request was rejected on 22.10.1994. Thereafter, the respondent No. 3 has again made another request on 31.10.1994 and subsequently on 19.07.1995 a legal notice has been issued on behalf of the respondent No. 3 to which a suitable reply was issued by the Bank on 30.08.1995. That the respondent No. 3 has approached this Hon'ble Court by way of CWJC No. 11236 of 1995 and the CWJC was dismissed by this Hon'ble Court on 16.01.1997. That the respondent No. 3 after a period of more than 18 years has approached the Labour Court seeking compensation under the Workmen Compensation Act, 1923. That the Labour Court without giving any finding on the delay or laches and contrary to the evidence on record has directed the respondent-Bank to pay the gratuity, leave encashment bonus, GPF/EPF with 12% interest and pension with other benefits. Learned counsel has assailed the said order on the grounds of laches and stated that once the resignation of the respondent No. 3 has been accepted by the



Bank, the question of paying any pension to the respondent No. 3 does not arise.

4. *Per contra*, the learned counsel for the respondent No. 3 has vehemently opposed the very maintainability of the present writ petition and stated that the respondent No. 3 has lost his leg during the course of his employment in a shooting incident at one of the branches. That the respondent No. 3 is entitled to the compensation as he was injured during the course of employment. Further, it is stated by the learned counsel that the statutory amounts which were due to the petitioners have to be necessary paid to the respondent No. 3 and, therefore, the question of delay or laches does not arise. Learned counsel has therefore, prayed this Court to dismiss the present writ petition.

5. This Court vide order dated 21.04.2023 had directed the GM (Legal) and GM (HR) to examine the issue involved in this CWJC and come up with a settlement proposal. Pursuant to which, the Bank has filed a second supplementary affidavit wherein, the following proposal has been placed as under;

(i)



Gratuity	Rs. 15,965/-	
Interest @ 12% from 22.09.1995 to 15.11.2019 i.e. 25.15 yrs.	Rs. 48,182/-	Rs. 64,147/-

(ii)

Leave Encashment	Not entitled Not payable since he resigned prior to 01.04.2001.
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(iii)

Provident Fund without adjustment	Rs. 49,100/-	
Interest @ 12% from 17.10.1997 to 15.11.2019	Rs. 1,30,096/-	Rs. 1,79,197/-

(iv)

Bonus	Rs. 1,354.20/-	
Interest	Rs. 4,086.90	Rs. 5,441/-

6. Thereafter, when the matter was listed for hearing on on 16.04.2024, this Court has again directed the Bank to come up with the calculation sheet showing the amount payable to the petitioners under the various heads like provident fund, bonus, compensation and interest till date. Pursuant to which, the fourth supplementary affidavit has been filed, giving the particulars of the amounts payable to the petitioners along with the interest calculated up to 16.04.2024;

S. No.	Particulars	Amount (in Rs.)
1	Interest @ 12% on PF	1,56,138.00
2	Bonus and Interest	6,161.06
3	Compensation	1,34,710.33
Total		2,97,009.39



7. Even though, the learned counsel for the respondent No. 3 has tried to argue on the merits of the case, he could not come up with any plausible explanation for the delay of 18 years in approaching the Labour Court. Further, as seen from the order of the Labour Court, absolutely no reasons have been given by the Labour Court for reaching the conclusion arrived at and directing the payment of pension to the respondent No. 3. Once the resignation of the respondent No. 3 is accepted and acted upon, the respondent No. 3 ceases to be an employee of the Bank. Therefore, the question of paying any pension does not arise at this point of time. If the respondent had a grievance with the acceptance of his resignation, he ought to have challenged the said acceptance, but for reasons best known kept quite for a period of more than 18 years. The conclusion reached by the Labour Court is not only perverse but contrary to the well settled principles of law, therefore, the order to the extent of directing the authorities to pay the pension and other retirement benefits are liable to be set aside and the same is accordingly set aside. However, duly taking note of the fact that the Bank authorities have themselves come forward with a proposal to pay interest on the provident fund/bonus/compensation under the Employees Compensation Act, 1923 which comes to a total amount of Rs. 2,97,009.39 Lakhs



(Two Lakh Ninety Seven Thousand Nine). Having regard to the fact that the respondent No. 3 has lost his leg due to the bullet injuries sustained during the course of the employment. This Court is of the opinion that the ends of justice would be served if the total compensation payable by the petitioner-Bank is enhanced to Rs. 5 lakhs (Rs. Five Lakhs) payable to the respondent No. 3.

8. The above amounts shall be paid to the respondent No. 3 as expeditiously as possible preferably within a period of four weeks from the date of receipt of a copy of this order.

9. With the above direction, the CWJC stands disposed of.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.05.2024.
Transmission Date	NA

