

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14868 of 2012

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Dhiru Kumar S/o Late Jagannath Prasad Resident of G- Choudhary Path Gali,
Saraiya Ganj P.S.- Town Thana, District- Muzaffarpur

... .. Petitioner/s

Versus

1. The Bank of Baroda through Its Chairman, Head Office, Bank of Baroda, Suraj Plaza Saayaji Ganj, Baroda- 390005, Gujrat.
2. The General Manager, Bank of Baroda, 5th Floor, Anand Vihar, West Boring Canal Road, Patna- 800001
3. The General Manager, Human Resources Management, Head Office, Bank of Baroda, 8th Floor, Suraj Plaza, Saayaji Ganj, Baroda- 390005, Gujrat
4. Regional Manager, Bank of Baroda, Shahi Complex, Tilak Maidan Road, Muzaffarpur
5. Senior Branch Manager, Bank of Baroda, Tilak Maidan Road Branch, Shahi Complex, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Baban Roy, Advocate. Mr. Abhay Bhushan Sinha, Advocate.
For the Respondent/s	:	Mr. Shivendra Kishore, Sr. Advocate. Mr. Nishi Nath Ojha, Advocate. Mr. S. K. Sharma, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 07-05-2024

Heard Mr. Baban Roy, learned counsel along with
Mr. Abhay Bhushan Sinha, learned counsel appearing on behalf
of the petitioner and Mr. Shivendra Kishore, learned senior
counsel along with Mr. Nishi Nath Ojha and Mr. S. K. Sharma,
learned counsel for the respondents – Bank of Baroda.

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



“ (A) For issuance of an appropriate writ in the nature of Mandamus, commanding and directing the respondents to absorb the petitioner on regular service of the Bank on the post of Peon in the Tilak Maidan Road Branch, Muzaffarpur under the settlement dated 08.03.2008 arrived at between the management of the Bank of Baroda and their workmen represented by All India Bank of Baroda Employees Federation under Section 12(3) of the Industrial Dispute Act, 1947 in presence of Deputy Chief Labour Commissioner, Central, Mumbai relating to the absorption of the casual employees working in the various branches of the Bank (Annexure-VI).

(B) For issuance of any other writ/writs, order/orders, direction/directions of which the writ petitioner would be found entitled under the facts and circumstances of the case.

3. Learned counsel appearing on behalf of the petitioner submits that the petitioner joined the Bank of Baroda on the post of casual peon / sweeper in the year 1983 and had worked for more than 240 days between 07.01.1983 to 23.04.2012 and his case may be considered in terms of the Tripartite Agreement dated 18.03.2008. The petitioner in support of his claim has also brought on record his wages account opened in the same branch of Bank of Baroda to show that from time to time he was paid his due wages as per his engagement for the work allotted to him.

4. *Per contra*, Mr. Shivendra Kishore, learned senior counsel appearing on behalf of the Bank of Baroda has vehemently opposed the claim of the petitioner and he has questioned the attendance register which has been brought on record, for the first time, by the petitioner by way of Annexure



I-VII. He submitted that the same is not certified by any of the officer of the Bank and it loses its credibility. Learned counsel further submitted that in Para-9, 10 and 11 of the counter affidavit, reasons have been given that petitioner don't fulfill the eligibility criteria. He submitted that petitioner's case was considered on merits and specific finding has been given that petitioner had not completed 240 days or more in consecutive 12 months between 01.03.1996 to 28.07.2007.

5. Having considered the rival submissions made on behalf of the parties, as well as, the fact that respondent no.1 has not denied that the petitioner had not worked in the Bank as a casual sweeper / peon on Class-IV post and rejection is on the ground that the petitioner has not completed 240 days or more in consecutive 12 months between 01.03.1996 to 28.07.2007. It is admitted by the parties that the Tripartite Settlement between the Bank and the casual workers like petitioner is dated 18.03.2008. In Para-21 of the counter affidavit, statement made in Phase-III of the Tripartite Settlement has been reproduced. On perusal of the same, it appears that it mandates that the employees who have worked for consecutive 12 months or more between 01.03.1996 to 28.07.2007 and still working, he will be absorbed in Phase-III.

6. Learned counsel for the Bank has vehemently



submitted that the attendance register which has been brought on record is not certified copy till issued by any of the officer of the Bank and the same cannot be relied upon. However, no denial has been made in respect of transaction of money, which is recorded in the Bank account of the petitioner relating to his Account No. 00050100002437.

7. At this stage, learned counsel appearing on behalf of the Bank submitted that these documents were not brought on record along with the writ petition and by way of rejoinder, in reply to the counter affidavit, has been brought on record for the first time.

8. I don't find any force in the submission made by the learned senior counsel considering the fact that the transaction shows that the amount has been transferred into the account of the petitioner by the Bank which needs to be verified by the competent authority of the Bank, from the Pass Book as to whether the same has been transferred in the account of the petitioner on account of wages of the petitioner for having worked on day to day basis.

9. In the aforesaid facts and circumstances, the petitioner, if so advised, may file a detailed representation before the respondent no.4 – Regional Manager, Bank of Baroda, Shahi Complex, Tilak Maidan Road, Muzaffarpur, who



is directed to consider the case of the petitioner after examining the genuinity of the attendance register, which has been brought on record by the petitioner and also the Bank Pass Book of the petitioner.

10. If it is found that the same is managed or forged one and has been brought on record just to get favourable order from this Court, the respondents are free to take legal action against the petitioner or in case, the register which has been brought on record tallies with the original register maintained for the period, on the basis of which the petitioner is claiming his right to be inducted into regular establishment, same may be shown to the petitioner, so that he may not be denied the benefits, which have been admitted by the Bank by way of Tripartite agreement which is binding on the Bank and its employee.

11. The writ petition, accordingly, stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	09.05.2024
Transmission Date	N.A.

