

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8484 of 2018

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Arun Kumar, Son of Late Mathura Prasad, Resident of Mohalla-Nagla, P.S.-
Malsalami, P.O.-Patna-City, District-Patna.

... .. Petitioner/s

Versus

1. Bihar Gramin Bank Through The Chairman
2. The General Manager, Bihar Gramin Bank, Head Office, Gramin Bank Chowk, P.O.-B.U. Nagar, begusarai.
3. The Branch Manager, Kauwa Baranch Bihar Gramin bank Kauwa Chowk, P.S.-Halai, District-Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mani Kant Mishra, Advocate

For the Respondent/s : Mr.Ranjeet Kumar Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 30-07-2024

Heard learned counsel for the petitioner and

learned counsel for the respondents.

2. The petitioner has prayed for the following

relief/s :-

*i. For quashing the impugned
letter bearing Ref. No.
HO/PAD/1054/6014/2017-18 dated
19.01.2018 (Annexure-P/9) issued by the
General Manager, Bihar Gramin Bank,
whereby it has been communicated/ordered
that petitioner's representation for payment
of salary and allowances for the period from
22.03.98 to 18.02.99 i.e. during the period*



of detention is not payable to him, despite the fact that petitioner has been acquitted of all charges in Regular Case No. 25 A/93 (Spl. Case No. 05/2011) by the Ld. Court of Special Judge, CBI, 1st, Patna vide judgement dated 25th February, 2017 and also ignoring clear legal provisions as stipulated under Regulation 30(2) of the Bihar Gramin Bank (Officers and Employees) Service, Regulations, 2010 with amendment -2013.

II. For issuance of a direction upon the respondents to make payment of full pay and allowances, admissible to the petitioner, treating the illegal detention period as on duty since he has been acquitted of all charges by the aforementioned competent court.

iii. For a further direction upon the respondent Bank to give encashment of Privilege Leave /Earned Leave for 240 days in place of 183 days only, because, he was forced to take leave to attain the Criminal Trial before the said Spl. Court, which resulted into loss of 57 days of Privilege Leave/Earned Leave.

iv. Also for a direction upon the respondent Bank to pay suitable compensation on account of the cost incurred on the court proceeding.



v. Also for a direction to the respondent bank to pay to him entire admissible consequential reliefs."

3. The present writ petition has been filed for setting aside letter No. HO/PAD/1054/6014/2017-18 dated 19.01.2018 (Annexure-P/9) issued by the General Manager, Bihar Gramin Bank (after amalgamation known as Dakhin Bihar Gramin Bank) (hereinafter referred to as 'the Gramin Bank').

3. Learned counsel for the petitioner submits that initially the petitioner was appointed on 13.07.1981 as Clerk-cum-Cashier in Samastipur Kshetriya Gramin Bank which was established on 12.05.1980 in exercise of the power conferred under Section 3(i) Regional Rural Banks Act, 1976. He submits that in the year 2012, particularly, on 15th October, 2012, the amalgamation of Bihar Regional Rural Bank and Samastipur Regional Rural Bank was taken place and Bihar Rural Bank was incorporated and new Regulation namely, Bihar Rural Bank (Officers and Employees) Service, Regulation, 2010 with amendment 2013 was enacted under Section 30 of the RRB Act, 1976.

4. Learned counsel for the petitioner further submits that during the service, an FIR bearing R.C. No.



25A/93/PAT/ dated 13.07.1993 was registered for hatching a criminal conspiracy against two employees of the bank. Thereafter, vide order dated 21.12.1994, chargesheet was submitted whereby petitioner's name was added in accused column and petitioner was taken into custody. Thereafter, vide Circular No. 21/1998 dated 15.04.1998 (as contained in Annexure P/1), the petitioner was put under suspension. The petitioner submitted an application for revocation of his suspension on 22.02.1999 (as contained in Annexure P/2). Subsequently, vide letter No. DPC/50/99-2000 dated 10.08.1999, suspension of the petitioner was revoked. The petitioner superannuated from his services on 31.01.2016.

5. Learned counsel for the petitioner further submits that vide judgement dated 25.02.2017, passed by the learned Special Judge, CBI, 1st, Patna, passed in Regular Case No. 25A/93, the petitioner was acquitted for the charges brought against him. Thereafter, the petitioner filed a representation on 03.04.2017 to the Chairman, Bihar Gramin Bank, Head Office, Begusarai, requesting for payment of full pay and allowances for the detention period i.e. 23.03.1998 to 18.02.1999, but his claim has been rejected, particularly, when the petitioner has been acquitted of all the charges in Regular Case No. 25A/93



(Special Case No. 05/2011) by the Court of Special Judge, CBI, 1st, Patna in its judgment dated 25.02.2017. Learned counsel for the petitioner further submits that the petitioner is entitled to the relief in the light of regulation 30(2) of the Bihar Gramin Bank [Officers and Employees] Service Regulations, 2010 with amendment 2013. Learned counsel for the petitioner further submits that for an occurrence taken place, Samastipur Regional Rural Bank has lodged an FIR bearing Regular Case No. 25A/93 (Special Case No. 05/2011) dated 13.07.1993 under various sections Prevention of Corruption Act, 1947 as well as the Indian Penal Code against two named accused employees of the Samastipur Kshetriya Gramin Bank in which petitioner was not named, but subsequently during investigation, chargesheet has been filed against him and the petitioner was taken into custody by the Central Bureau of Investigation. He continued in custody from 22.03.1998 to 18.02.1999. Counsel further submits that when the petitioner was released from custody 18.02.1999, he submitted an application on 22.02.1999 to the Chairman, Samastipur Kshetriya Gramin Bank, Head Office, Samastipur for revocation of his suspension and vide Circular No. 47/99 dated 10th of August, 1999, the petitioner was directed to submit his joining before the competent authority.



6. Learned counsel for the petitioner further submits that the service regulation of the Bihar Bank is applicable on the petitioner. He further submits that there are old regulation and new regulation. The old service Regulation ended in the year 2010, whereas the new service regulation came into effect in the year 2010 itself duly amended in the year 2013 repealing the earlier Regulation of 1976. He further submits that in Rule No. 29(2)(a) of the old Regulation of 1980 and in Rule 30(2) of the new Regulation of 2010 duly amended in the year 2013, it has been mentioned that in case of acquittal, the officer or employee shall be entitled for full pay and allowances. He submits that the petitioner's representation has been rejected which is the order impugned dated 19.01.2018 before this writ petition in Annexure P/9.

7. Learned counsel further submits that in the said rejection order in the form of letter dated 19.01.2019, the mentioning of regulation 22(2) of the Bank's Service Regulation, 1980 has been made which is basically a non-existent provision and therefore, he submits that the petitioner is entitled for the relief as demanded that the salary and allowances for the period from 22.03.1998 to 18.02.1999 would be released in his favour.



8. Learned counsel for the Bank on the other hand, vehemently opposes the prayer made by learned counsel for the petitioner and submits that from the said order impugned it become crystal clear that decision for not making payment of the salary during the period from 22.03.1998 to 18.02.1999 has been made in the year 1999 itself and on the basis of said condition, the petitioner's joining was accepted. Learned counsel for the Bank further submits that by challenging the decision of 19.01.18 which is Annexure P/9 is basically not the decision of 2018, rather it is the challenge of decision of 1999 itself in the year 2018. He further submits that the petitioner has already retired in the year 2016 and his all retiral dues were cleared by the bank, therefore, once he has accepted the decision of the bank official in this regard then he shall have no cause of action to challenge the same after lapse of about 20 years particularly when employer-employee relation ended. Therefore, on this ground, this writ petition is fit to be dismissed.

9. Learned counsel further submits that in the present case the petitioner's claim shall not be covered in the new regulation. It may be covered under old regulation due to the reason that the petitioner has retired in the year 2016 and in the year 2016 he ceases to be an employee of the bank whereas



he was acquitted in the year 2017. Therefore, the new regulation shall not help the petitioner in any manner. Learned counsel for the Bank further submits that in Annexure P/9 regulation 29(6) is basically a typographical error and in this regard, specific pleading has been made by him in paragraph 8 of the counter affidavit filed on behalf of the Bank. He submits that there is no entitlement of the petitioner due to the reason that according to regulation 22(2) of the Bank Service Regulation, no salary or allowances will be paid to him for the rest period i.e. from 22.03.1998 to 18.02.1999.

10. In the light of the submissions made by the parties, it transpires to this Court that only issue involved in the present case is as under :-

"whether the petitioner, who was in custody during the period from 22.03.1998 to 18.02.1999 in connection with a criminal case lodged by the Bank, and a decision has been taken by the bank not to make payment during the custody period on his representation after bail on request to accept joining in 1999, but subsequently after acquittal on



25.02.2017, he being non-employee become entitled to receive the full salary and allowance of those period."

It is made clear that the petitioner being employee of the Bank was in custody from 22.03.2018 to 18.02.199 and after release on bail an order has been made by the authorities in the year 1999 on his representation, particularly in the light of the regulation of the bank applicable at the relevant time. For the purpose of deciding the above issue, it is necessary to quote regulations 29(2)(a) of the Samastipur Regional Rural Bank Staff Service Regulations, 1980 as under :-

"29 (2) Any payment made to an officer or employee under sub-regulation (1) shall be subject to adjustment of his/her pay and allowances which shall be made according to the circumstances of the case and in the light of the decision as to whether such period is to be accounted for as a period of duty or leave; Provided that full pay and allowances shall be admissible only if the officer or employee :-

(a) is treated as on duty during such period, and (b) is acquitted of all charges or satisfies the competent authority, in the case of his/her release from detention or his/her detention being set aside by a competent court,



that he/she had not been guilty of improper conduct resulting in his/her detention."

11. This Court further feels it necessary to quote the relevant Regulation 30 of Bihar Gramin Bank [Officers and Employees] Service Regulations, 2010 with amendment -2013 as under :-

30. Officer or employee arrested for debt or on a criminal charge. -

(2) Any payment made to an officer or employee under sub-regulation (1) shall be subject to adjustment of his pay and allowances which shall be made according to the circumstances of the case and in the light of the decision as to whether such period is to be accounted for as a period of duty or leave:

Provided that full pay and allowances shall be admissible only if the officer or employee,

(i) is treated as on duty during such period; and

(ii) is acquitted of all charges or satisfies the Competent Authority, in case of his release from detention or his detention being set aside by the Competent Court, that he had not been guilty of improper conduct resulting in his detention."

12. It is also necessary to decide that which



regulation shall apply in the case of the petitioner. The earlier regulation or the new regulation. Admittedly, the petitioner retired in 2016. The new regulation has come in 2010 with amendment -2013. It is also true that the cause of action for the petitioner has arisen in the light of the judgement of acquittal in 2017 when he ceases to be the employee of the bank. Therefore, the petitioner who has been retired from the service in 2016 and has taken all his retiral benefits from his employer prior to acquittal and as such, employer - employees relation has completely been ended. So, whether the petitioner shall take benefit of the said regulations which have been framed for the employee is a pertinent question.

13. In this regard, certain events are necessary to be dealt with. It has been jointly submitted that the petitioner has joined the service on 13.07.1981 during his service period, FIR RC No. 25A/93 lodged on 13.07.1993. He was not an accused but during investigation he has been made accused. He was taken into custody during investigation by the investigating agency on 23.03.1998. He was put under suspension on 24.03.1998. He was released from custody on 18.02.1999 and submitted representation for joining. His joining was accepted vide Circular No. 27 of 1999 dated 10th August, 1999 in which



his full pay and allowance due to detention for the period from 22.03.1998 to 18.02.1999 has been ceased and with this condition, he accepted the joining. Petitioner retired on 01.02.2016 and thereafter the employer - employee relation ended. He filed a representation for all retiral dues as per the then situation and he received the same. After 01.02.2016, employer-employee relation ended and due to end of service, regulation not applicable on non-employee. The relation between the employee and employer become ceases when he retired in 2016 and due to this reason, this Court is of the firm view that none of the regulation shall be applicable in case of the petitioner in 2017 at the time of his acquittal and hence provisions 29 or 26 shall not provide any help to the petitioner in any manner.

14. In this background, the writ petition dismissed.

(Dr. Anshuman, J)

Ashwini/-

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