

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2717 of 2021

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Smt. Shanti Seema Topno wife of Clement Toppo Clerk, Regional Office, Uttar Bihar Gramin Bank, Chapra, District - Saran, resident of village Sisi Karamtoli, P.S. Jari, District Gumla, State Jharkhand at present resident of Ashiana Apartment - 85/4 Flat No. - 401, Ward No. 4, Mahrauli, P.S. Mehrauli, New Delhi 11..30, Delhi State.

... .. Petitioner/s

Versus

1. Uttar Bihar Gramin Bank through its Chairman, H.O. Uttar Bihar Gramin Bank, Kalambhagh Chowk, P.S. Kazi Mohammedpur, Muzaffarpur, District Muzaffarpur.
2. Chairman, Uttar Bihar Gramin Bank, H.O. Uttar Bihar Gramin Bank, Kalambhagh Chowk, P.S. Kazi Mohammedpur, Muzaffarpur, District Muzaffarpur.
3. General Manager, Uttar Bihar Gramin Bank, H.O. Uttar Bihar Gramin Bank, Kalambhagh Chowk, P.S. Kazi Mohammedpur, Muzaffarpur, District Muzaffarpur.
4. Regional Manager, Uttar Bihar Kshetriya Gramin Bank Regional Office Chapra, P.S. Chapra, District Saran.
5. Regional Manager, Uttar Bihar Kshetriya Gramin Bank Regional Office, Hajipur, P.S. Hajipur, District Vaishali.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 3384 of 2021

- =====
1. Clement Toppo son of Late Patras Toppo Clerk-cum-Cashier, Uttar Bihar Kshetriya Gramin Bank (Sponsored by Central Bank of India) Branch - Sonho, H.O. Muzaffarpur, Bihar. resident of village Sisi Karamtoli, P.S. Jari, District Gumla, State Jharkhand at present resident of Ashiana Apartment - 85/4 Flat No. - 401, Ward No. 4, Mahrauli, P.S. Mehrauli, New Delhi 110030, Delhi State.
 2. Smt. Shanti Seema Topno wife of Clement Toppo Clerk, Uttar Bihar Kshetriya Gramin Bank (Sponsored by Central Bank of India) Branch - Sonho, H.O. Muzaffarpur, Bihar. resident of village Sisi Karamtoli, P.S. Jari, District Gumla, State Jharkhand at present resident of Ashiana Apartment - 85/4 Flat No. - 401, Ward No. 4, Mahrauli, P.S. Mehrauli, New Delhi 110030, Delhi State.

... .. Petitioner/s

Versus

1. Uttar Bihar Kshetriya Gramin Bank through its Chairman, Uttar Bihar Kshetriya Gramin Bank Head Office, Sharma complex, Kalambhagh Chowk, Muzaffarpur District.



2. Chairman, Uttar Bihar Kshetriya Gramin Bank, Uttar Bihar Kshetriya Gramin Bank Head Office Sharma Complex, Kalambagh Chowk, Muzaffarpur, Muzaffarpur District.
3. General Manager, Uttar Bihar Kshetriya Gramin Bank, Uttar Bihar Kshetriya Gramin Bank Head Office Sharma Complex, Kalambagh Chowk, Muzaffarpur, Muzaffarpur District.
4. Regional Manager, Uttar Bihar Kshetriya Gramin Bank, Regional Office Chapra, P.S. Chapra, District Saran.
5. Regional Manager, Uttar Bihar Kshetriya Gramin Bank, Regional Office, Hajipur, P.S. Hajipur, District Vaishali.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 2717 of 2021)

For the Petitioner/s : Mr.K.M.Joseph, Advocate
For the Respondent/s : Mr.Prabhakar Jha, Advocate
Mr.Amitesh Jha, Advocate

(In Civil Writ Jurisdiction Case No. 3384 of 2021)

For the Petitioner/s : Mr.K.M.Joseph, Advocate
For the Respondent/s : Mr.Prabhakar Jha, Advocate
Mr.Amitesh Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

8 14-05-2024 1. Both the Writ Petitions are taken up for hearing and

I have heard the learned counsels for the parties.

2. As both the Writ Petitions are interconnected, first is filed by the husband and wife jointly, both being employees of Uttar Bihar Gramin Bank; and the next one being filed by the Smt. Shanti Seema Topno, Petitioner No. 2 of C.W.J.C. No. 3384 of 2021. Therefore, I propose to dispose of both the Writ Petitions by a common judgement.

3. In C.W.J.C. No. 3384 of 2021, the Petitioners have prayed for the issuance of a writ in the nature of mandamus or any other appropriate writ, order, or direction for the following



benefits:-

“i. Out of turn promotion due to Petitioner with effect from 14.10.2005, the date of the occurrence when he in course of duty was attacked by robbers and was robbed and shot at by the robbers injuring his spinal column resulting in his 100% permanent disablement,

ii. Payment of admissible award in cash of Rs. 50,000/- (Rupees fifty thousand only) with effect from 14.10.2005 date of occurrence/ with interest.

both benefits (1) & (2) admissible as per directions contained in the resolution of the Governing Board of the Bank vide Circular No. Ka: Ka. Vi./98-99/78 dated 20.09.1997.

iii. Grant of time bound promotions in service on par with that given to other similarly placed persons who were recruited and entered into service in same cadre along with Petitioners and continue in service till date with effect from the date the promotions fell due,

iv. Annual increments in salary admissible to Petitioners on par with that allowed to similarly placed regular employees with effect from dates when the increments became due and were paid to other employees, and

v. The Respondents be directed to make payment of the arrears of dues on the



various counts stated above arising from difference in salary payable on revision of salary and allowances without further delay.

vi. The Respondents be directed to provide for appointment of skilled persons as attendants to attend to medical need [CIC] of Petitioner round the clock basis as specified by the Medical Board appointed in compliance with the direction of this Hon'ble High Court passed in C.W.J.C. No. 9062 of 2008 and affirmed by order passed in L.P.A. No. 211 of 2009 arising there from.

vii. The Respondents be further directed to pay compensation for the hardship, loss and damages suffered by Petitioner during the period 14.10.2005 till date due to arbitrary withholding by Respondents from Petitioner of due and timely promotions in service, award, revision of salary with due annual increments and payment of full medical expenses including provision for qualified attendants to care for Petitioner arising from 100 % disability suffered by Petitioner in the course of service of the Respondent Bank.”

4. In C.W.J.C. No. 2717 of 2021, filed by Smt. Shanti Seema Topno, the Petitioner has prayed for the issuance of writ in the nature of mandamus or any other appropriate writ, order, or direction to the Respondents, directing them to pay back



wages to the Petitioner up to date as directed by the appellate authority by an order dated 9th of July, 2013, passed in Appeal No. 243 of 2013, read with order dated 9th of January, 2009 and the order dated 9th of April, 2009 passed by the Hon'ble Court in C.W.J.C. No. 9062 of 2008 and L.P.A. No. 211 of 2009 respectively.

5. The facts of both cases are more or less indisputable. It is already recorded that both the Petitioners being husband and wife were employees of Uttar Bihar Gramin Bank. In or about 2005, Petitioner No. 1 was posted as Clerk-cum-Cashier at the Sonho Branch of the erstwhile Saran Kshetriay Gramin Bank and his wife, Petitioner No. 2 herein was posted as a Clerk at the main branch of the Bank at Chapra. On 14th of October, 2005, when Petitioner No. 1 was proceeding by his motorcycle from the head office of the Bank at Chapra to the Sonho Branch carrying a sum of Rs. 2 Lakhs for the daily transactions of the said branch without any security guard provided to him, he was attacked by robbers/dacoits. The miscreants fired at him and snatched away the said Rs. 2 Lakhs from his possession. As a result of the gunshot injury received on his back, the Petitioner sustained injury to his spinal cord, affecting his bowel control system and the lower part of his



body of the Petitioner No.1 was paralyzed.

6. Shorn of unnecessary details, it would be relevant to state at this stage that Petitioner No. 1 was medically treated in Delhi. He and his wife took shelter in the house of the sister of Petitioner No. 1. He has been made mobile on wheelchair but cannot control his bowel and urine. Therefore, he needs constant support of an attendant for cleaning his body after every four hours. He is also made to urinate with the help of catheter by attendant.

7. It is the case of the Petitioner that on 20th of September, 1997, Saran Kshetriay Gramin Bank, Chapra, came up with a notification on the issue of the extent of health to be rendered to a Bank employee if, in the course of performing his duty, he is attacked by dacoits or terrorists.

8. Paragraph 6 of the said notification states that the employees or members of the public who would resist dacoits or terrorists if they would attack the Bank employees, they would be rewarded by a cash reward of Rs. 50,000. In addition to this, Bank employees would be granted out-of-turn promotion if he possesses requisite qualifications, and his salary would be fixed with three increments.

9. In paragraph 7 of the said notification, it is also



stated that if an employee of the Bank or member of the public or police personnel receives injury in such attack his admission in the hospital and medical treatment would be borne by the Bank.

10. The Petitioners previously filed a Writ Petition bearing C.W.J.C. No. 9062 of 2008, wherein a Co-ordinate Bench of this Court held as hereunder :--

“In the latter two judgments the High Court of Karnataka and High Court of Delhi were dealing with compensation to Forest Watchman murdered by smugglers and death of a head constable on account of explosion of a rocket kept in the Malkhana without preventive measures. In the present case Petitioner has no doubt suffered from disability but he is still continuing in service and being paid his salary . His treatment expenses and expense of providing a suitable wheel-chair has also been met by the Bank. Hence it is not a fit case for entertaining a claim for compensation in exercise of writ jurisdiction under Articles 226 of the Constitution of India. If Petitioner as an employee has any other forum under the general law or under the Labour Law, he is permitted to avail of such opportunity.

This court finds no unfairness on the part of the Bank in treating the Petitioner to be



on duty and paying him his salary throughout the period of his treatment and at the same time meeting the cost of the treatment . Hence the Writ Petition is disposed of with the aforesaid observations. If peitioner no.2 has not been paid her salary for any period when she has worked or was on authorized leave, such salary shall be paid to her without any delay. To protect Petitioner no.1 from any unfair direction by the Bank that he must join, Chapra, it is observed that the Bank and the Petitioner will abide by a decision of Medical Board to be constituted by the competent authority of the Indian Spinal Injuries Centre, Delhi and Petitioner will be given an opportunity to join duties only as per opinion of the Medical Board keeping in view the injuries of Petitioner no.1 ”

11. It will not be out of place to mention that the Petitioners filed the said Writ Petition praying for compensation but the Writ Court held that in view of the payment of salary to the Writ Petitioner as well as medical expenses, the Petitioner is not entitled to any compensation. The Court, however, directed to constitute a Medical Board to ascertain the extent of the disability of Petitioner No. 1. Against the said order, the Petitioners preferred an appeal being L.P.A. No. 211 of 2009. The said appeal was disposed of vide an order dated 9th of April, 2009, without interfering with the order passed by the learned



Single Judge.

12. As per the order passed in the above-mentioned Writ Petition, the Medical Board was constituted. The Petitioner was examined by the Medical Board and the Board declared that the Petitioner has got 100 per cent disability. However, he will be able to do his routine work on wheel chair. The Board also recommended the following support system :-

(i) He will require an attendant to look after him and who can do CIC;

(ii) He will require a Wheel Chair;

(iii) He will require barrier free residence and office where he can move on his wheel chair without any hindrance;

(iv) He will require a house on the ground floor, which is wheel chair friendly and without any steps.

13. It is submitted by the learned Advocate for the Petitioner that both Petitioners visited each and every branch of the Bank but did not find any barrier-free office space where the Petitioner can move on his wheel chair without any hindrance. Therefore, the Petitioner was not in a position to join his service and he is being attended by his wife.

14. On the above factual circumstances, twofold prayers have been made by the learned Advocate for the



Petitioner No. 1 :-

(i) The Bank authority should be directed to make payment of the cost of three attendants per day to the Petitioner and;

(ii) Secondly, he should be promoted to the next promotion from his date of accident and suffering from injury i.e., on and from 14th of October, 2005.

15. The learned Advocate for the Petitioner also submits that after granting promotional post to the Petitioner, he should be awarded the next promotional scale as per his entitlement and accordingly enhancement of salary and other emoluments.

16. With regard to C.W.J.C. No. 2717 of 2021, it is contended on behalf of the Petitioner that the Petitioner being the wife of Petitioner No. 1 of C.W.J.C. No. 3384 of 2021, attends her husband daily for 24 hours as the Petitioner No. 1 has not been provided with any attendant. In order to look after the Petitioner No. 1 from the date of his accident till this date, the Petitioner No. 2 failed to join her service. Therefore, she may be granted all back wages and permitted to join her service in case attendants are provided by the Bank authority.

17. Learned Advocate on behalf of the Respondents-



Bank, on the other hand, submits that the Petitioners of C.W.J.C. No. 3384 of 2021 previously filed Writ Petition, claiming huge amount of compensation. The said Writ Petition was dismissed on the ground that the Bank authority had been going on paying the monthly salary to Petitioner No. 1. The Bank has also paid all medical expenses. Up to the date, medical reimbursement is being made by the Bank. Therefore, the learned Single Judge of this Court held that the Petitioner was not entitled to any compensation. Not only this, in the said judgement, the Writ Court held that the action taken by the Bank in the instant matter was satisfactory. The Court of Appeal did not interfere with the order of the Writ Court. Thus, as per order of the Writ Court, the Bank authority has been going on paying salary to the Petitioner No. 1 along with medical reimbursement.

18. It is also submitted by the learned Advocate on behalf of the Respondent-Bank that the Bank authority has also borne the cost of wheelchair which has been provided twice to Petitioner No. 1. It is submitted by the Bank authority that as the Petitioner No. 1 fails to discharge any duty of the Bank, he has not been promoted in service.

19. It is needless to say that promotion is an incidence of service. It is legitimate expectation of an employee that on



discharge of satisfactory duty, he will be promoted to service if the service is having promotional avenue. If, on the other hand, the service does not have any promotional avenue, the employee is entitled to get Assured Career Progression (ACP) on completion of certain years of service. ACP is considered as alternative to promotion where even after discharging service for a particular period of time, the employee is not promoted to a higher post.

20. On perusal of the regulation issued by the Bank on 28th of September, 1997, it is found that if an employee of the Bank suffers any injury by the dacoits or terrorists, he will be entitled either to promotion or his salary shall be fixed at a higher rate awarding three increments. Indisputably, the Petitioner No. 1 is not in a position to discharge any duty of the Bank. Therefore, in my considered view, the Petitioner is not entitled to get any promotion. However, the salary of Petitioner No. 1 shall be fixed with three increments from the date of receiving injury.

21. Secondly, as per previous order of the High Court, the Respondent authority is bound to comply with the direction of Medical Board. Therefore, the Respondent authority shall bear the cost of two attendants whose remuneration shall be



fixed on the basis of the daily wages under the Minimum Wages Act.

22. On grant of two attendants by the Bank authority, the Petitioner of C.W.J.C. No. 2721 of 2021 shall be permitted to join her service but she will not be entitled to get any back wages because of the fact that she did not discharge any duty of the Bank during this period. From the date of her joining, she will be entitled to get her salary as per the scheme of pay which she deserves.

23. With the above order, both the Writ Petitions are disposed of.

(Bibek Chaudhuri, J)

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