

S/L 3
24.01.2025
Court. No. 551
*Sourav/
Suvayan*

**WPA 2497 of 2017
With
CAN 1 of 2020**

**Plaban Chatterjee & Anr.
Vs.
Union of India & Ors.**

*Mr. Debashis Kundu, Sr. Adv.
Mr. B. K. Singh
Mr. A. Kunud
Mr. Barun Ghosh
Ms. Chumki Chowdhuri*

...for the petitioners.

*Mr. R. N. Majumdar
Mr. S. M. Obaidullah*

...for the respondent/Bank.

Mr. Uttam Basak

...for the Union of India.

Mr. Anirban Mitra

...for CBI/respondent no. 6.

1. The affidavit-of-service and the exception to the report as submitted by the respondent no. 2/Bank as filed on behalf of the writ petitioners today are taken on record. Mr. Mitra, learned advocate appearing on behalf of the respondent/CBI authority has also submitted a photocopy of letter dated 26.05.2023. Let the photocopy of the letter dated 26.05.2023 be also taken on record.
2. By filing the instant writ petition, the writ petitioners have prayed for issuance of appropriate writ or writs against the respondent no. 2/Bank and its functionaries, namely, the respondent nos. 3, 4 and 5 commanding them for immediate release of the money

which were deposited in various accounts by the writ petitioners as well as by their close relatives, particulars of which have been given at Annexure P-3 of the instant writ petition i.e., from Page Nos. 66 to 68.

3. Mr. Kundu, learned Senior Advocate appearing on behalf of the writ petitioners at the very outset draws attention of this Court to Page No. 60 of the supplementary affidavit as affirmed on September 5, 2019 by the writ petitioners. It is contended by Mr. Kundu that by issuing a letter dated 15.05.2019, the Superintendent of Police, CBI/ACB/Kolkata wrote a letter to the Chief Vigilance Officer of the respondent no. 2/Bank that they have got no objection in the matter of releasing /defreezing all the bank accounts/deposit accounts of the writ petitioner no. 1 who had already been acquitted in connection with R.C. Case No. 18/83 and R.C. Case No. 33/84.
4. In his next fold of submission, Mr. Kundu draws attention of this Court to Page Nos. 27 to 51 and Page Nos. 56 to 65 of the writ petition being the copies of the judgments as passed in Special Case No. 6 of 1987 (R.C. Case No. 33/84) dated 26.06.1984 and Special Case No. 04 of 1986 (R.C. Case No. 18/83) respectively as passed by the learned Special Judge, CBI Court at Alipore. It is submitted by Mr. Kundu that from the photocopies of the aforesaid judgments, it would reveal that the present writ petitioner no. 1 along with

a co-accused were found not guilty of the charges as framed against them.

5. Drawing attention to the report as submitted by the respondent no. 2/Bank and as has been affirmed on July 3, 2023, it is contended by Mr. Kundu that the respondent no. 2/Bank has taken a flimsy ground for adjustment of the deposited amount lying with the respondent no. 2/Bank on account of alleged admission of the writ petitioner no. 1.
6. Mr. Kundu, in course of his argument further draws attention of the Court to paragraph 9 of the exception filed by the writ petitioners, against the said report which was affirmed on August 17, 2023. It is submitted by Mr. Kundu that in paragraph 9 of the said exception, the writ petitioner no. 1 has specifically denied that he had admitted any defalcation of money at his instance for which the bank suffered a loss.
7. It is thus submitted by Mr. Kundu that without holding any disciplinary proceeding and without coming to a finding that the alleged defalcation took place on account of the alleged action and/or inaction of the writ petitioner, the respondent no. 2/Bank cannot be permitted to adjust the alleged defalcated money not only from the bank account of the writ petitioner no. 1 but also from the accounts of the close relatives of the writ petitioner no. 1 who have got no nexus with the alleged defalcation as contended by the Bank.

8. It is further submitted by Mr. Kundu that the respondent no. 2/Bank has got no authority to adjust the money lying in the account of the writ petitioner no. 1 and his relatives by crediting in the suspense account especially when the alleged guilt of the writ petitioner no. 1 was not proved in the aforementioned two criminal cases whereby and whereunder the writ petitioner no. 1 was found not guilty. It is thus submitted on behalf of the writ petitioners that appropriate reliefs may be granted to the writ petitioners in terms of the prayers made in the writ petition.
9. *Per contra*, Mr. Majumder, learned Advocate appearing on behalf of the respondent No. 2/bank and its functionaries at the very outset draws attention of this Court to a server copy of the judgment dated 21.01.2014 as passed by a co-ordinate Bench in WP 37690 (W) of 2013. It is submitted by Mr. Majumder that from the said judgment of the co-ordinate Bench it would reveal that it has been held that the present writ petitioner no. 1 was not honourably acquitted from the said criminal trials. It is argued that the said co-ordinate Bench further held that since the writ petitioner no. 1 merely got a benefit of doubt in criminal proceeding he is not entitled to get any benefit of the same for allowing his prayer for setting aside the order of dismissal as passed pursuant to a disciplinary proceeding.

10. In his next fold of submission Mr. Majumder draws attention of this Court to the report as filed on behalf of the respondent No. 2/bank as has been affirmed on July 3, 2023. Mr. Majumder draws attention of this Court to the various annexures to the said report. It is argued by Mr. Majumder that from the annexures to the said report it would reveal that the writ petitioner no. 1 had admitted his guilt of defalcation before the authority of the bank and the writ petitioner no. 1 himself requested for adjustment of the defalcated money from the various accounts as maintained by him and his close relatives in the respondent No. 2/bank. It is thus submitted by Mr. Majumder that on account of such admission and instruction the defalcated amount has been adjusted and as on this day the writ petitioners are not entitled to any farthing as wrongly claimed.
11. On perusal of the entire materials as placed before this Court and after giving due consideration of the submissions of the learned Advocates for the contending parties it reveals that in an earlier round of litigation a co-ordinate Bench of this Court declined to interfere with the finding of the disciplinary authority of the bank regarding dismissal of the writ petitioner no. 1 merely on the ground of acquittal of the present writ petitioner no. 1 in the aforementioned two criminal cases.

12. Coming to the factual aspects of this case it reveals to this Court that in the instant writ petition it is the consistent stand of the respondent No. 2/bank that on account of alleged admission of guilt by the writ petitioner no. 1 and on account of written instruction given by the writ petitioner no. 1 the money which were lying in different accounts of the writ petitioners and their close relatives have been adjusted. From the report as submitted by the respondent bank this Court finds no paper with regard to the finding of the bank either by way of a disciplinary proceeding or by any internal enquiry that the writ petitioner no. 1 had actually defalcated any sum.
13. It is settled principle of law that on account of self-same charges there cannot be any bar in proceeding a criminal trial and a departmental proceeding parallelly though the mode of proof in a departmental proceeding differs from that of criminal trial.
14. On behalf of the writ petitioners attention of this Court is drawn to the photocopy of the judgments as passed in two criminal trials wherein the writ petitioner no. 1 was not found not guilty of the charges as framed against him. It appears to this Court that there is no bar on the part of the disciplinary authority of the bank to conduct a in-house proceeding to enquire into the alleged charge of defalcation of money by the writ petitioner no. 1.

15. On careful consideration of the entire materials as placed before this Court, this Court finds no whisper either in the report of the respondent bank or in any other papers by way of which the respondent No. 2 came to a finding that the writ petitioner no. 1 was guilty for alleged defalcation of money. It appears to this Court that it is the consistent stand of the respondent bank that on account of admissions by the writ petitioner no. 1 which have been annexed with the report of the bank the said monies were adjusted. As discussed earlier on behalf the bank authority no documents have been placed even at the time of hearing that by way of departmental proceeding and/or by way of in-house enquiry the bank has come to a finding that said alleged admissions are really made by the writ petitioner no. 1 and even if the same is found to be made by him whether it has been done out of his free will or under any coercion, duress, fraud, etc.
16. For the sake of argument, even it is accepted that on the basis of the admission of the writ petitioner no. 1 the bank has come to a finding that the writ petitioner no. 1 is guilty of the alleged defalcation but the respondent bank has miserably failed to substantiate as to how it gets its authority to deduct the monies of the close relatives of the writ petitioners simply on the basis of admission by the writ petitioner no. 1 that he had defalcated the money of the bank.

17. It thus appears to this Court that the defence of the bank with regard to the adjustment of money from the accounts of the writ petitioners' and their close relatives is unreasoned and baseless.
18. It further appears to this Court that the judgment dated 21.01.2024 as passed by a co-ordinate Bench in WP 37690 (W) of 2013 (Plaban Chatterjee vs. Union Bank of India & Ors.) has got no relevance at all in the facts and circumstances of the instant case since the subject matter of the said writ petition was with regard to the dismissal of the writ petitioner no. 1 from service which is distinguishable from the facts and circumstances as involved in this case.
19. In view of the discussion made hereinabove, this Court thus finds sufficient merit in the instant writ petition and the instant writ petition thus succeeds and is thus allowed.
20. Consequently, the respondent No. 2/Punjab National Bank is hereby directed to refund the entire amount as deposited in the names of the persons particulars of which has been given in page No. 66 to 68 of the instant writ petition to the respective account holders along with six percent interest till the date of actual payment. The entire amount i.e., the principal plus the interest accrued thereon at the rate mentioned hereinabove shall have to be disbursed within a month from the date of communication of this order.

21. Learned Advocate appearing on behalf of the respondent No. 2/bank is hereby requested to forward a server copy of this order to the respondent No. 3 for his immediate compliance.
22. Respondent No. 3 is hereby directed to act on the server copy of this order.
23. Similar liberty is given to the learned Advocate for the writ petitioners to communicate the server copy of this order to the respondent No. 3 forthwith.
24. With the aforementioned observations, the instant writ petition being **WPA 2497 of 2017** along with the interim application being **CAN 1 of 2020** is hereby disposed of.
25. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)