

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.886 of 2024
In
Civil Writ Jurisdiction Case No.14867 of 2015

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Rai Yatish Chandra Sharma, Son of late Jagnath Rai Sharma, Resident of Mohalla- Basant Vihar Sariswa Road, Police Station- Majahaulia, District- Bettiah, West Champaran.

... .. Appellant/s

Versus

1. The Uttar Bihar Gramin Bank through its Chairman, Head Office Kalambagh Chowk, Muzaffarpur.
2. The Board of Directors, Uttar Bihar Gramin Bank, Head Office, Kalambagh Chowk, Muzaffarpur.
3. The General Manager, Uttar Bihar Gramin Bank, its Head Office at Kalambagh Chowk, Muzaffarpur.

... .. Respondent/s

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with
Letters Patent Appeal No. 699 of 2024
In
Civil Writ Jurisdiction Case No.14867 of 2015

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1. The Uttar Bihar Gramin Bank through its Chairman Head Office Kalambagh, Chowk, Muzaffarpur.
2. The Board of Directors, Uttar Bihar Gramin Bank Head Office Kalambagh, Chowk, Muzaffarpur.
3. The General Manager Uttar Bihar Gramin Bank, its Head Office at Kalambagh Chowk, Muzaffarpur.
4. The Chief Manager, Uttar Bihar Gramin Bank, Muzaffarpur Head Office, Kalambagh Chowk, Muzaffarpur.

... .. Appellant/s

Versus

Rai Yatish Chandra Sharma Son of late Jagnath Rai Sharma, Resident of Mohalla- Basant Vihar Sariswa Road, Bettiah (West Champaran).

... .. Respondent/s

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Appearance :
(In Letters Patent Appeal No. 886 of 2024)
For the Appellant/s : Mr. Dipak Kumar, Advocate
For the Respondent/s : Mr. Prabhakar Jha, Advocate
(In Letters Patent Appeal No. 699 of 2024)
For the Appellant/s : Mr. Prabhakar Jha, Advocate
For the Respondent/s : Mr. Dipak Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
and
HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)

Date : 02-02-2026

Since both the appeals challenge the final judgment passed in C.W.J.C No. 14867 of 2015, we have heard both the appeals analogously. We are now Going to pass the following judgement.

2. The appellant of L.P.A. No. 886 of 2024 filed C.W.J.C. No. 14867 of 2015 for following reliefs:-

(i) Issuance of an order, direction or writ in the nature of Certiorari quashing the order dated 19.10.2013 contained in HO/DAD/06/13-14/No 525 as well as consequential administrative order dated 19.10.2013 contained in HO/DAD/06/13-14/No 526, by which the disciplinary authority has awarded the penalty of recovery of Rs. 1442454/- (fourteen lakh forty two thousand four hundred fifty four) only, from the amount of gratuity and leave enchashment, payable to the petitioner, as a part of pecuniary of loss of Rs. 2116251/- only caused to the Bank by the petitioner in terms of Regulation 39(I) (a) (iv) of Uttar Bihar Gramin Bank (Officers & Employees) Services Regulation, 2010.

(ii) Issuance of an order, direction or writ in the nature of Certiorari quashing the appellate order dated 04.03.2014 contained

in letter no. HO/DAD/06/13-14/838, whereby and where under petitioner's appeal dated 25.11.2013 against the order of Disciplinary Authority has been upheld.

(iii) Issuance of an order, direction or writ in the nature of Mandamus commanding the respondent authorities to refund the amount of gratuity payable to the petitioner.

(iv) Any other relief or reliefs to which the petitioners may be found entitled to in the facts and circumstances of the case.

3. The Hon'ble Single Judge disposed of the above-mentioned writ petition vide an order dated 11th March, 2024 by passing the following order:-

10. I have gone through the entire records and it was found that in the memo of charge no pecuniary loss was mentioned and the authority concerned has passed the order by which the recovery has been ordered from the amount of gratuity and leave encashment of the petitioner. It appears that the authority concerned without appreciating the fact, the pecuniary loss was not the subject matter of the present proceeding and no pecuniary loss was mentioned in the memo of charge passed the order of recovery.

11. In view of the aforesaid the order dated 19.10.2013 (Annexure-11) and 04.03.2014 (Annexure-13) are set aside and the respondent-bank is directed to pay all the consequential benefits to the petitioner within a period of eight weeks from the date

of the receipt/production of the copy of the order.

12. The writ petition is allowed.

4. The writ petitioner has preferred L.P.A. No. 886 of 2024 on the ground that while disposing of the writ petition, the Hon'ble Single Judge directed the respondent-bank to pay all consequential benefits to the appellant/petitioner but no order was passed for payment of interest despite the fact fact that the benefits were illegally withheld for a period of eleven years.

5. The respondent, namely. Uttar Bihar Gramin Bank filed L.P.A. No. 699 of 2024 assailing the judgment passed by the Hon'ble Single Judge.

6. We have heard the learned counsels for the parties at length. It is found from the documents filed in the writ petition that when the appellant/petitioner was posted as a Branch Manager of the respondent-bank, he was directed to file reply to the show cause notice dated 2nd July, 2010 regarding financial irregularities in contrasting a building spending approximately a sum of Rs. 35 lakhs. The appellant/petitioner submitted a reply on 7th July, 2010 denying all such allegations. It was also submitted by him that he constructed a residential house at Haribatikachowk, Bettiah in the name of his wife who was, at the relevant point of time, a lecturer in the Department of

History Mahanth Ramrup Goswami College, Bettiah, West Champaran. He also stated that for construction of residential house, he took loan of Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand) at the relevant point of time. The petitioner also denied the allegation of criminal misappropriation of sum of Rs. 10,000,-(Rupees Ten Thousand) and 12,000,-(Rupees Twelve Thousand) while disbursing K.C.C. loan.

7. Subsequently, the Vigilance Officer submitted a report on 9th February, 2011 stating, inter alia, that the appellant/petitioner sanctioned and disbursed K.C.C. loan to borrowers by an act prejudicial to the interest of the bank with some ulterior motives.

8. Subsequently, a departmental proceeding was initiated against the appellant/petitioner, he was served with memorandum of charge. The appellant/petitioner submitted statement of defence and during the continuation of departmental proceeding, the appellant/petitioner retired from service w.e.f. 31st August, 2012 on superannuation.

9. In August, 2013, the inquiry report was submitted. The Inquiry Officer held that four charges against the appellant/petitioner were proved. Three charges were partially proved and three charges were not proved. However, the

appellant/petitioner was saddled with the punishment by the disciplinary authority in the departmental inquiry for recovery of Rs. 14,42,454/-(Rupees Fourteen Lakhs Forty Two Thousand Four Hundred and Fifty Four) from the amount of gratuity and leave encashment, as part of pecuniary loss of Rs. 21,16,251/- (Rupees Twenty One Lakhs Sixteen Thousand Two Hundred and Fifty One) only to the bank in terms of Regulation 39(1)(a) (iv) of Uttar Bihar Gramin Bank (Officers & Employees) Service Regulations, 2010. The petitioner preferred an appeal against the order of the disciplinary authority but the appellate authority vide an order dated 4th March, 2014 dismissed the said appeal.

10. It is contended on behalf of the appellant/petitioner that in the charge memo, the bank authority did not disclose the pecuniary loss of the bank sustained due to the alleged wrongful act by the appellant/petitioner.

11. By passing the impugned judgment, the Hon'ble Single Judge allowed the C.W.J.C. No. 14867 of 2015 by setting aside the order dated 19th October, 2013 and 4th March, 2014 directing the bank to pay all the consequential benefits to the petitioner within a period of eight weeks from the date of receipt/production of the copy of the order.

12. It is further submitted by the learned counsel on behalf of the appellant/petitioner that the respondent-bank duly complied with the order passed by the Hon'ble Single Judge by making payment of gratuity and leave encashment to the appellant/petitioner. However, the Hon'ble Single Judge while disposing of the writ petition did not grant any interest on the amount which was not paid to the appellant/petitioner after his retirement. Therefore, the prayer of the petitioner is limited only to the interest allegedly entitled by him over the gratuity and leave encashment.

13. In L.P.A. No. 699 of 2024, the Uttar Bihar Gramin Bank has assailed the impugned judgment dated 11th March, 2024 passed by the Hon'ble Single Judge in C.W.J.C. No. 14867 of 2015.

14. The Hon'ble Single Judge rightly held that the memo of charge dated 22nd July, 2013 does not speak about any allegation as to the pecuniary loss. The authority without considering the nature of charges leveled against the appellant/petitioner directed recovery of an amount of Rs. 14,42,454/-(Rupees Fourteen Lakhs Forty Two Thousand Four Hundred and Fifty Four) from the gratuity and leave encashment of the appellant/petitioner of L.P.A. No. 886 of

2024. The appellate authority failed to consider that amount of gratuity cannot be attached as per the Service Regulation as well as provisions of Payment of Gratuity Act. When pecuniary loss was not alleged in the memo of charge, no amount can be deducted from the retiral benefit of the appellant/petitioner. The learned Writ Court considered the judgment of the Hon'ble Supreme Court passed in *M.V. Bijlani Vs. Union of India & Ors* reported in (2006) 5 SCC 88.

15. On due consideration of the entire materials available on record, we do not find nay scope of interfere against the impugned judgment.

16. Accordingly, L.P.A. No. 886 of 2024 is allowed.

17. Since a sum of Rs. 14,42,454/-(Rupees Fourteen Lakhs Forty Two Thousand Four Hundred and Fifty Four) was deducted from the gratuity and leave encashment of the appellant/petitioner by the bank, he is entitled to get interest @ 7% over the said amount from the date of passing of the order by the disciplinary authority till the date of actual payment.

18. The appeal filed by the bank is dismissed on contest.

19. The bank is directed to make payment of the interest amount over the gratuity and leave encashment which

has been deducted from the retiral benefit of the appellant/petitioner within eight weeks from the date of this order.

(Bibek Chaudhuri, J.)

(Dr. Anshuman, J.)

Jyoti Kumari/-

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