

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 15361 of 2016

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Jagannath Prasad, S/o Radha Mohan Lal, Resident of Shivaji Path, Gola Road,
West Bailey Road, P.O.- Danapur Cantt, P.S.- Rupaspur, District- Patna.

.... Petitioner/s

Versus

1. The State Bank of India through its Chief General Manager, Local Head Officer, Western Gandhi Maidan, Post Box No.103, Patna- 800001.
2. The Chief General Manager, State Bank of India, Local Head Officer, Western Gandhi Maidan, Post Box No. 103, Patna- 800001.
3. The Deputy General Manager, State Bank of India, Zonal Office, Patna.
4. The Assistant General Manager, State Bank of India, Human Resources Department, Local Head Office, Western Gandhi Maidan, Patna- 800001.
5. The Chief Manager, State Bank of India, Mithapur Branch, Patna- 800001.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Md. Nadim Seraj, Advocate
For the State Bank of India	:	Mr. S. D. Sanjay, Sr. Advocate
		Mr. Anjani Kumar Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 25-08-2018

Heard Mr. Md. Nadim Seraj, learned counsel for the petitioner and Mr. S.D. Sanjay, learned senior counsel assisted by Mr. Anjani Kumar Mishra, learned counsel for the State Bank of India (hereinafter referred to as the 'Bank').

2. The petitioner has moved the Court for the following



reliefs:

“(i) For issuance of writ of mandamus for commanding the respondents to pay the amount of interest on Provident Fund, Gratuity, Leave Encashment and arrears of pension since the date of superannuation i.e. 27.12.2005 which has been withheld illegally by the respondents despite several representations.

(ii) For issuance of a writ of certiorari for quashing of letter no. PPG/SHI.KV/225 dated 28.12.2015 issued by the Assistant General Manager, Human Resources Department, Local Head Officer, West Gandhi Maidan, Patna whereby and where under the claim of the petitioner with regard to payment of the amount of interest on the gratuity and leave encashment due to delay in payment has been denied in an arbitrary manner.

(iii) For issuance of a writ of mandamus for direction to pay the interest on the aforesaid due amounts to the petitioner for deliberate and intentional delay and latches in payment.

(iv) For issuance of any other relief/relief which may deem fit and proper and for which the petitioner may entitle.”

3. The admitted factual position is that the petitioner being a Branch Manager in the State Bank of India was proceeded against for various charges and ultimately on 27.12.2005, was inflicted with compulsory retirement. The petitioner appears to have moved before the authorities as well as the Court against such order of compulsory retirement but the same did not succeed and finally in C.W.J.C. No. 5070 of 2007, the Court by order dated 23.06.2009, disposed off the writ petition directing the Disciplinary Authority to reconsider the quantum of punishment and pass a fresh order in



accordance with law. Being aggrieved, the Bank preferred L.P.A. No. 976 of 2009, which was allowed by order dated 02.12.2010, by which the order dated 23.06.2009 in C.W.J.C. No. 5070 of 2007 was set aside. However, as the question of the petitioner not being paid his dues was also raised by learned counsel for the petitioner before the Division Bench, in the last paragraph of the order dated 02.12.2010, it was observed that since the issue was not raised before the learned Single Bench, no direction could be given except for liberty to the petitioner to approach the Competent Authority of the Bank who would be under obligation to look into this aspect and make payment of the admissible amount to the petitioner within a period of three months from the date of receipt/production of a copy of the order. It appears that the petitioner, even thereafter, had not approached the Bank for payment of his terminal benefits. However, the management of the Bank sent him letters, asking him to submit his application for payment of his retiral dues. The Bank authorities also clarified that if the said applications were not sent within a week resulting in delayed payment, the Bank will not be liable for any payment of interest on delay. Thereafter, the petitioner initiated the process for payment of his terminal dues by complying with the requirements and completing the formalities, which ultimately has resulted in payment of all his admitted dues, though in the year 2015.



The petitioner in the present case seeks interest on such delayed payment.

4. Learned counsel for the petitioner submitted that the Bank having passed an order of compulsory retirement against him on 27.12.2005, was obliged to pay him his terminal dues without any undue delay and the petitioner cannot be penalized for non payment of such dues on time. It was further submitted that even the circulars of the Bank put the onus on the Competent Authority for making such payment without delay. In this regard, attention of the Court was drawn to the Codified Circular Instructions on Settlement of Terminal Benefits of the Bank in which, in the event of no application submitted by the employee for settlement of terminal benefits, in the case of a punished employee, a registered letter is required to be sent to the employee on the last known address, in terms of Corporate Centre Circular No. CDO/ADM/SPL/1275 dated 2nd June, 1999 and CDO/PM/14/SPL/4975 dated 21st November, 1997, which was never complied by the Bank. Learned counsel submitted that in view of the onus having been put on the Bank, failure to comply with such guidelines clearly would entitle the petitioner to interest on delayed payment.

5. Learned counsel for the Bank submitted that the petitioner at no point of time had ever approached the Bank for



payment of his terminal dues and rather he was seriously and vigorously pursuing the remedy against the order of his compulsory retirement and only at the stage of the L.P.A., prayer was made on behalf of the petitioner for payment of his dues in which context, the Court had observed that he should approach the Competent Authority of the Bank. Learned counsel submitted that despite such order being passed on 02.12.2010, still it was the Bank, which took the initiative and wrote to the petitioner for the first time on 09.03.2011, requesting him to immediately submit proposal for payment of terminal dues referring to the order of the High Court. Learned counsel submitted that still there being no response from the petitioner, the Bank followed it up by again communicating to him under letter dated 17.11.2014, advising him to submit an appropriate application as per the prescribed formats at the earliest to enable settling of dues without any delay. Learned counsel submitted that it was further indicated that failure on his part to submit the applications within a week might result in delayed payment of terminal dues for which the Bank would not be liable for any interest for such delay. Learned counsel further drew the attention of the Court to Letters dated 08.12.2014 and 12.12.2014, sent by way of reminders to the petitioner for submitting application relating to payment of terminal dues. Learned counsel submitted that as soon as



the petitioner finally submitted such applications, payments have been made within a few months between February, 2015 to August, 2015. Learned counsel submitted that the circulars of the Bank are basically for instructions to the Competent Authority to be prompt in payment of terminal dues but the same does not confer any right on the employee to interest on delayed payment. Learned counsel further submitted that on the date of compulsory retirement, the dues payable to the petitioner came to Rs. 14,41,592/- relating to Provident Fund, Gratuity and Leave Encashment whereas the outstanding in the loan account of the petitioner was Rs. 6,89,636.07/-, which the petitioner owed to the Bank under such loan accounts relating to housing loan, car loan and overdraft. Learned counsel drew the attention of the Court to order dated 25.02.2016 passed in C.W.J.C. No. 13885 of 2012, in the case of **Badri Prasad Singh vs. The State of Bihar & Ors.**, in which on the point of charging of interest on the loan account of the aforesaid writ petitioner even after superannuation of the employee, the Court had held that till the time the loan account is finally settled and the petitioner neither having expressed his desire nor having communicated the same to the Bank authorities to adjust from his retiral benefits, the authorities could not, at the very initial stage have done the same and if they have so done at the final stage of making



payment of retiral dues, by adjusting the outstanding loan amounts, such act cannot be said to be arbitrary, as the Bank was justified in recovering its dues after adjusting from the amount payable to the petitioner.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that there are contributory laches on the part of both the petitioner as well as the Bank. The petitioner being a Branch Manager at the time when he was made to compulsorily retire cannot take the plea of ignorance that various formalities were required to be completed and applications submitted for payment of his terminal dues. Thus, not having done so on the one hand and on the other hand being active in pursuing his remedy against such order of compulsory retirement and even moving before the Court, he was clearly waiting for a decision in the matter of his compulsory retirement and, thus, obviously seems to have not bothered to pursue the matter relating to payment of his terminal dues. Even in the order dated 02.12.2010 in L.P.A. No. 976 of 2009 at paragraph no. 16, the following has been recorded:

“16. Before parting with we must take note of the submissions of Mr. Awadhesh Kumar Mishra, learned counsel for the respondent-writ petitioner that admissible amount to which the respondent-writ petitioner despite the order of punishment is entitled to receive from the Bank has



not been paid to him. Since this aspect of the matter was not raised or gone into before the learned Single Judge we would refrain from giving any direction save and except that we would give liberty to the respondent-writ petitioner to approach the competent authority of the Bank who would be under obligation to look into this aspect and make payment of the admissible amount to the respondent-writ petitioner within a period of three months from the date of receipt/production of a copy of this order.

7. Thus, before the Court, in L.P.A. No. 976 of 2009, a specific prayer was made by learned counsel for the petitioner that he was not paid the admissible amount even in terms of the punishment order, upon which the Court had not given any directions and had only given him liberty to approach the Competent Authority of the Bank and it was observed that they were under obligation to look into such aspect and make payment of the admissible amount to the petitioner. Clearly, as per the order of the Division Bench, liberty was given to the petitioner to approach the Competent Authority of the Bank and thereafter, it was made obligatory on the Bank authorities to make payment of admissible amount within a period of three months. Thus, strictly speaking, the Court had noticed the grievance of the petitioner relating to non payment of his terminal dues and had given liberty to him to approach the Competent Authority of the Bank, which he did not do for almost four years and in fact, at every instance, it was the Bank which kept requesting him



to submit such applications. Thereafter, upon the petitioner completing the formalities and submitting the required applications, payments have been made within a few months. Thus, the Court finds that as far as the observations of the Division Bench in L.P.A. No. 976 of 2009 is concerned, the Bank seems to have respected the same and made payment in terms thereof.

8. Coming to the issue as to how much negligence can be attributed to the Bank authorities, it appears that as per the guidelines, the authorities of the Bank were also required to be vigilant and sensitive with regard to an employee who has been compulsorily retired, so that at least he got his terminal benefits within a reasonable time. Thus, there appears to be some delay on the part of the authorities in not taking up the matter and writing to the petitioner, which they seem to have done only in the year 2011, by calling upon him for completing the formalities, for which, in the considered opinion of the Court, the petitioner is entitled to some relief. However, this should not be construed as the petitioner being held entitled to any interest as a matter of right or the Bank being obliged to pay interest under any of its own circulars or guidelines, but by way of an indulgence by the Court, for serving the cause of justice and also balancing the equities.

9. Coming to the point of quantification of interest to be



awarded, the Court finds that the matter can be divided into three time frames. December 2005, when the order of compulsory retirement was passed; followed by order of the Division Bench in L.P.A. No. 976 of 2009 in December, 2010 and payment to the petitioner in the year 2015. Thus, there is five year intervening period between all the aforesaid three events. Taking a cue from the same and in background of the discussions made hereinabove, the Court grants the petitioner 6% simple interest for a period of five years on Rs. 14,41,592/-, the amount which has been quantified by the Bank itself as being the retiral benefits payable to the petitioner on 27.12.2005 i.e., on the day the order was passed for his compulsory retirement. The same be paid within two months from the date of production of a copy of this order before the respondent no. 2.

10. The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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