

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17545 of 2015

Tarkeshwa Pandey Son of Late Radha Krishna Pandey, Resident of Village and P.O. Sakardih, P.S. Jalalpur, District - Saran at Chapra, presently working as Office Assistant in Uttar Bihar Gramin Bank, Jalalpur Branch, District - Saran at Chapra.

... .. Petitioner

Versus

1. Uttar Bihar Gramin Bank
2. The Chairman, Uttar Bihar Gramin Bank, Head Office, Kalambagh Chowk, Muzaffarpur.
3. The General Manager, Uttar Bihar Gramin Bank, Head Office, Kalambagh Chowk, Muzaffarpur.
4. The Regional Manager, Uttar Bihar Gramin Bank, Regional Office, Chapra.
5. The Branch Manager, Uttar Bihar Gramin Bank, Jalalpur Branch, District - Saran at Chapra.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar -Manglam
For the Respondent/s : Mr. Prabhakar Jha
Mr. Mukund Mohan Jha

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 16-10-2019

Heard learned Counsel for the petitioner and the learned Counsel for the respondent Bank.

The petitioner was working as a Peon in the respondent bank. An FIR was lodged on 7.8.2006 against the petitioner, his son and other family members alleging offences under Sections 304B read with Section 34 of the IPC. The allegations led to conviction of the petitioner on 10.6.2015. The conviction was recorded by order and judgment dated 10.6.2015 passed in



Sessions Trial No. 737 of 2006. The petitioner was granted bail on 1.9.2015 and released from custody on 8.9.2015. The next day he submitted his joining in the bank on 9.9.2015. The petitioner after submitting his joining was served with a notice of proposed punishment of dismissal by the respondent bank on 15.10.2015. Notice was issued in view of provisions of Regulations 39 and 40 of the Uttar Bihar Gramin Bank (Officers and Employees) Service Rules 2010. The notice of proposed punishment was assailed by the petitioner by filing the instant proceedings.

During pendency of the instant writ proceeding, pursuant to the said notice and after considering the reply to the notice the petitioner was dismissed on 27.11.2015 on account of his conviction in the criminal case by the bank in view of the provisions contained in the Regulations 39 and 40. The petitioner had preferred criminal appeal against the conviction order dated 10.6.2015. The conviction of the petitioner was set aside in Cr. Appeal (S.J.) No. 381 of 2015 by order dated 2.1.2019.

It would be relevant to note here that by the time the petitioner was acquitted in the criminal case by High Court he had already crossed the age of retirement. In view of the aforesaid facts I.A. No. 1 of 2019 has now been filed in the instant proceeding. The petitioner in view of the developments during pendency of



the writ proceeding has sought to add certain relief to the writ petition. The petitioner has sought quashing of the order dated 27.11.2015 dismissing him from service and has also prayed that he may be granted benefits of payment of salary from the date on which he offered joining i.e. 9.9.2015.

Submission on behalf of petitioner's Counsel is that since the petitioner had been released from incarceration on 8.9.2015 itself and offered his joining on 9.9.2015 then having regard to the observations of the Apex Court in paragraph 5 of the judgment in the case of *Raj Narayan Vs. Union of India* rendered in *Civil Appeal No. 3339 of 2019*, as well as paragraph 3 of the judgment of Apex Court in the case of *Ranchhorji Chaturji Thakore Vs. Superintending Engineer, Gujarat Electricity Body, Himmat Narayan & ors.* reported in *(1996) 11 SCC 603*, the petitioner would be entitled to grant of salary from the date on which he offered to join in the bank after his release on bail i.e. on 9.9.2015 as thereafter he has been prevented from working by the authorities on account of their non acceptance of petitioner's joining.

Learned Counsel representing the bank submits that the scheme of the Regulations which governs terms and condition of the petitioner's services make it abundantly clear that conviction



by itself is a disqualification to continue in service. The mere fact of conviction is sufficient to dismiss an employee dispensing with the requirement of compliance with even the principles of natural justice. Since the conviction by itself is a disqualification in terms of the bank's Regulations under which the petitioner served the bank, the claim for salary during the period when the petitioner was a convict cannot be allowed to the petitioner.

Counsel for the respondent Bank has also referred to the same judgments which are referred to by petitioner's Counsel to submit that it is only upon his acquittal in the criminal charges that the disqualification is removed and that the petitioner can legitimately offer to join.

In the opinion of this court it is such offer of joining, post acquittal which if not acceded to by the respondent authority, that benefits may enure to the petitioner to claim salary. That it not the fact in the instant case.

Joining was submitted at the time when the petitioner's status was of a convict and as such his claim for payment of salary for the period subsequent to such joining is not sustainable in the eyes of law.

Counsel for the petitioner also submits that since now there is no disqualification against the petitioner, he would be



entitled to benefits on account of post retiral dues as is available under the relevant service regulation to other employees.

That is an issue which requires no direction, as admittedly there is no disqualification which can stand in the way of grant of post retirement benefits as is available under the service regulation, for which petitioner's counsel submits that the petitioner will submit claim within a period of four weeks. It is expected that the respondent Bank should dispose of the claim and pay the admissible dues within three months thereafter.

The writ petition stands disposed of with the above observations and directions.

(Madhuresh Prasad, J)

SNkumar/-

AFR/NAFR	AFR
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