(2010) 02 JH CK 0053

In the Jharkhand High Court

Bipendra Prasad Lal APPELLANT

Vs

Bharat Coking Coal Limited and Others RESPONDENT

Date of Decision : 11-02-2010

Acts Referred:

Citation : (2010) 02 JH CK 0053

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—Heard counsel for the patties and with their consent, this application is disposed of at the stage of admission.

2. The petitioner in this writ application has prayed for a direction upon the respondents to refund him a sum of Rs. 58,360/- which, according to the petitioner has been illegally deducted from the amount of the petitioner''s gratuity towards interest on the House Building loan which the petitioner had taken earlier from the respondents.

3. In the counter affidavit filed by the respondents, t is sought to be explained that under the terms of agreement executed by and between petitioner and respondents, a sum of Rs. 1,86,000/- was borrowed by the petitioner from the respondents by way of housing loan. The principal amount together with interest was to be repaid by the petitioner in 176 equal monthly installments spanning over a period of 20 years. However, even before the expiry of the period, the petitioner had opted for voluntary retirement which was accepted by the respondents on 07.12.1999. After acceptance of his voluntary retirement the petitioner had obtained his retiral benefits which was assessed after he had submitted the no objection certificates from all the concerned departments. However it was later found that the House Building loan was not cleared by the petitioner and furthermore, some advances which the petitioner had earlier obtained, such mounts had also remained unpaid by the petitioner prior to the date of his retirement. As such, the total outstanding principal amount together with interest stood in the petitioner''s loan account, was deducted from the

amount of his gratuity together with the amounts which the petitioner had obtained by way of advance but not repaid.

4. Learned Counsel for the respondents refers in this context to the statement of account annexed to the counter affidavit and submits that the apprehension of the petitioner that certain extra amount by way of purported interest which the petitioner was not liable to pay, has been illegally deducted fro n the petitioner''s gratuity amount, is therefore misconceived.

5. From the annexures to the writ application, appears that though the principal amount borrowed by the petitioner has been shown as 1,86,000/-, the total amount of interest payable by the petitioner on the principal amount was assessed as Rs. 95,960/-. Admittedly, such amount of interest was payable by the petitioner only if he continued to pay the installments till the 176th installment. On the contrary, it appears that the petitioner''s loan account has been prematurely liquidated that too unilaterally by the respondents taking advantage of the fact that the gratuity amount of the petitioner is retained in their hands.

6. Learned Counsel for the petitioner refers to the terms of agreement of the house building loan and submits that the agreement does not prohibit premature liquidation of the loan account and neither does it in loose any penalty upon the borrower for payment of any extra amount upon premature liquidation of the loan account. Learned Counsel adds further that upon the premature liquidation of the loan account, the respondents could at best recover the outstanding amount as shown in the ledger, as on the date of liquidation which would have included at best, the balance of the principal amount and the interest which had accrued on balance amount till that date.

7. Rebutal, if any to these aspects of the petitioner''s case, have not been explained by the counsel for the respondents satisfactorily.

8. Considering the above facts and circumstances, this application is disposed of with a liberty to the petitioner to file a representation before the concerned authorities of the respondents and within four weeks from the date of receipt of the representation, the respondents shall reassess the actual amount payable by the petitioner in his house building loan account on the date when the account was liquidated, comprising the balance on the principal amount and the amount of interest accrued and remaining unpaid till such date and shall deduct only such amount towards principal and interest accumulated till that date, from the gratuity amount of the petitioner and if any amount, in excess than what was payable by; the petitioner, has been deducted, then the respondents shall refund the same to the petitioner within four weeks from the date of reassessment.

With these observations, this writ application is; disposed of. Let a copy of this order be given to the counsel for the respondents.

