(2019) 12 UK CK 0069

In the Uttarakhand High Court

Case No : Writ Petition (S/B) No. 556 Of 2019

Deendayal Khanduri APPELLANT

Vs

Secretary, Cooperative Bank & Others RESPONDENT

Date of Decision : 11-12-2019

Acts Referred:
Constitution Of India, 1950 — Article 226

Citation : (2019) 12 UK CK 0069

Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Kumar Verma, J

Bench : Division Bench

Advocate : Vinodanand Barthwal, B.S. Parihar, Seema Sah

Final Decision : Disposed Of

Judgement

Ramesh Ranganathan, CJ

1. Heard Mr. Vinodanand Barthwal, learned counsel for the petitioner, Mr. B.S. Parihar, learned Standing Counsel appearing for the State and Ms.

Seema Sah, learned counsel appearing for the respondent-Bank and, with their consent, the Writ Petition is disposed of at the stage of admission.

2. The petitioner had earlier invoked the jurisdiction of this Court filing Writ Petition (S/B) No.75 of 2018, seeking to have the order dated 27.11.2017

quashed; and for a mandamus directing the respondents to grant him payment of ex-gratia of Rs.1,80,000/- and Rs.26,000/- income-tax with interest.

3. By its order in Writ Petition (S/B) No.75 of 2018 dated 12.03.2019, a Division Bench of this Court directed the third respondent therein ie the

Secretary/General Manager, District Cooperative Bank, Kotdwar, Garhwal to ascertain the extent to which the loans extended by the petitioner to

various loanees, which were earlier declared as non-performing assets, had been recovered from them; after ascertaining the amounts recovered, the third respondent should release a part of the retiral benefits (withheld earlier by the third respondent and which had been kept in fixed deposit by him),

in the petitionerâ??s favour, proportionate to the amount recovered from the loanees under the recovery certificate issued by the authorities

concerned; the entire exercise, commencing from the verification of the amounts recovered from the loanees, thereafter in determining the amount to

be paid to the petitioner, and the actual repayment to him, should be completed with utmost expedition; and, in any event, not later than three months

from the date of receipt of a copy of the order. The Division Bench made it clear that, in case the entire amount due from the loanees is recovered

under the recovery certificate, the balance amount retained by the third respondent, from the retiral dues of the petitioner, shall be paid to him.

4. The petitioner has again invoked the jurisdiction of this Court by way of the present Writ Petition contending that, while a sum of Rs.3,70,000/-had

been deposited by the borrowers, the same was not released in his favour, but only a sum of Rs.2,69,000/- had been paid to him. The petitioner also

claims that, though legal notice has been issued in this regard, no response is forthcoming from the respondent-Bank.

5. The earlier order of a Division Bench of this Court, in Writ Petition (S/B) No.75 of 2018 dated 12.03.2019, required the Cooperative Bank to

ascertain the extent to which the loans extended by the petitioner to various loanees, which were earlier declares as non-performing assets, had been

recovered from them; and, to release a part of the retiral benefits in proportion to the amount recovered from the loanees.

6. It is contended by the petitioner that a sum of Rs.3,70,000/- was recovered from the borrower, and therefore an equal amount ought to have been

released in his favour in terms of the said order of the Division Bench.

7. While the petitioner claims that a lesser amount was released in his favour, these are all not matters for this Court to examine in proceedings under

Article 226 of the Constitution, and are matters for the Cooperative Bank to consider.

8. Suffice it, instead of adjudicating the dispute on merits, to direct the Cooperative Bank to furnish details of the amount recovered from the loanees

in proportion to which they had paid the petitioner Rs.2,69,000/-.

9. The information, as directed hereinabove, shall be furnished to the petitioner

within two weeks from the date of production of a certified copy of this

order.

10. Needless to state that, in case the borrowers had deposited a higher amount than what was refunded to the petitioner, the Bank shall consider

paying the differential amount to him in accordance with law.

11. The Writ Petition is disposed of accordingly. No costs.

