
(2009) 03 CAL CK 0084
In the Calcutta High Court
Case No : F.M.A. No. 16016 (W) of 2006

Hemendra Nath Datta

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 12-03-2009

Acts Referred:

Citation : (2009) 03 CAL CK 0084

Hon'ble Judges : Jayanta Kumar Biswas, J

Bench : Single Bench

Advocate : Md. Galib and Niranjana Chattopadhyay, for the Appellant; Sudeep Pal Chowdhury for the Bank and Chhabi Chakraborty for the State, for the Respondent

Judgement

Jayanta Kumar Biswas, J.

The Judgment of the Court was as follows:

1. The petitioner in this writ petition dated June 6, 2006 is seeking a mandamus quashing Annexures P6 and P8 and commanding the respondents, and particularly the sixth respondent, the Branch Manager, State Bank of India, Santiniketan Branch, Birbhum to permit him to withdraw the balance lying in the savings bank account of one Rabindm Nath Dutta.
2. Rabindra Nath Dutta was the Headmaster of Sultanpur Nibedita Sikhayatan, Birbhum. After retirement he was getting pension from the State, and he was withdrawing his pension through the Santiniketan Branch of the State Bank of India at which he opened a savings bank account. According to the arrangement his monthly pension released by the State was to be deposited by the State in the savings bank account. He made the petitioner, his younger brother, his nominee. On May 27, 2000 he died, and thereupon the petitioner wanted to withdraw the balance lying in the account in the capacity of his nominee.
3. By the letters dated November 12, 2002, at p.26, and February 2, 2006, at

p.29, Annexures P6-and P8 respectively, the bank informed him that since in compliance with direction given by the State the entire balance lying in the account was remitted to the State, there was no question of permitting him to withdraw any amount from the account of the deceased. Feeling aggrieved he took out the present writ petition.

4. By filing opposition the Treasury Officer, the third respondent, has stated that on Rabindra's death the petitioner did not become entitled to get family pension.

5. At the time of hearing on February 19, 2009 Mrs. Chakraborty, Counsel for the State, submitted that the State directed the bank to refund only the amount, that was paid in excess of Rabindra's entitlement to get pension and hence perhaps under a wrong impression the bank remitted to the State the entire balance lying in Rabindra's savings bank account. She further submitted that apparently only sum of Rs. 871 was to be remitted by the bank.

6. Under the circumstances, I directed both the State and the bank to file affidavits stating the actual position, and in compliance with the direction both the State and the bank have filed affidavits.

7. In the affidavit dated February 25, 2009 the Treasury Officer has stated that a sum of Rs. 96,614 was wrongly remitted by the bank, since on account of excess payment to Rabindra the State was entitled to recover only Rs. 871 and the bank was required to remit only this amount. In his affidavit dated March 12, 2009 the Branch Manager of the bank has stated that on the sum of Rs. 96,614/- interest amounting to Rs. 33,898 would have accrued till February 28, 2009.

8. In view of the above noted situation, there can be no doubt that the State is under an obligation to refund to the bank Rs. 96,614 on account of principal and to pay it Rs. 33,898 on account of interest.

9. Mrs. Chakraborty has said that the directions given by this Court will be strictly followed by the State. Mr. Pal Chowdhury, Counsel for the bank, has said that once the money is paid, the bank will pay the whole of it to the person entitled to withdraw it according to the rules and regulations of the bank. He has said that if according to the rules and regulations the petitioner, as nominee of the deceased account holder, is entitled to withdraw the money, then necessary steps for the purpose will be taken without any delay.

10. Under the circumstances, I dispose of the writ petition ordering as follows. Within seven working days from the date of communication of this order the Treasury Officer shall refund the bank Rs. 96,614 and pay it Rs. 33,898. If according to the rules and regulations of the bank the petitioner is entitled to withdraw the amount, then the bank shall take necessary steps for the purpose. If the petitioner is not entitled to withdraw the money, then the bank shall give a reasoned decision that shall be communicated to all concerned at once. There shall be no order for costs.

11. Urgent certified xerox of this order, if applied for, shall be supplied to the

parties within three days from the date of receipt of the file by the section concerned.