

13.03.2024
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WPCT 117 of 2023
Punjab National Bank & Another
– *Versus* –
Union of India & Others

Mr. Abhishek Banerjee,
Ms. Parna Roy Choudhury
... for the Petitioners.
Mr. Ashok Kumar Chakraborty, Ld. A.S.G.,
Mr. S. N. Dutta
.... for the Respondent Nos.1-3/UoI.

Affidavit-of-service filed by the petitioners be kept on record. It appears from the same that pursuant to our earlier order dated 4th March, 2024 service has been effected upon the learned advocate appearing for the respondent no.4 before the learned Tribunal. In spite of such service no one appears today on behalf of the respondent no.4.

Mr. Banerjee, learned advocate appearing for the petitioners submits that the learned Tribunal had erroneously directed the petitioners to refund the recovered amount to the applicant/respondent no.4 herein erroneously applying the proposition of law as laid down in the case of *State of Punjab and Ors. vs. Rafiq Masih (White Washer) & Ors.*, reported in (2015) 4 SCC 334.

He further submits that a contempt application has already been preferred by the respondent no.4 and the same has been fixed for hearing before the learned Tribunal on 15th March, 2024.

Mr. Chakraborty, learned Additional Solicitor General appearing for the Union of India, assisted by Mr. Dutta, learned advocate submits that there had been no laches on the part of the employer. The bank/petitioner no.1 had disbursed the benefits by wrongly fixing the pension of the respondent no.4 at the rate of ₹6750/- and family pension @ ₹4750/- with effect from 1st January, 2006. Such fixation is in excess of the entitlement of the respondent no.4.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Prima facie, an arguable case has been made out by the petitioners and unless the order impugned is stayed, the petitioners may suffer irreparable loss.

In view thereof, there shall be a stay of operation of the impugned order dated 30th August, 2022 passed in the original application, being O.A. No. 350/01334/2016 till the end of April, 2024 or until further orders, whichever is earlier.

List the matter for further consideration in the daily supplementary list of this Court on **23rd April, 2024** under the same heading.

In the meantime, the respondent no.4 and the petitioners would be at liberty to exchange their affidavits.

The petitioners are directed to immediately intimate this order to the respondent no.4 and also to the learned advocate, who represented the said respondent before the

learned Tribunal and to file an affidavit-of-service on the returnable date.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)