

Raneegunj Coal Association Ltd. and Another

Vs

Union of India and Others and Punjab National Bank

Civil Miscellaneous Petition No. 17655 of 1988 in Writ Petition (Civil) No. 954 of 1977

(M. M. Dutt, S. R. Pandian, Kuldip Singh JJ)

08.08.1989

ORDER

1. This civil miscellaneous petition has been filed by the Punjab National Bank for directions.
2. A writ petition being Writ petition (Civil) No. 404 of 1972 challenging the validity of the Coking Coal Mines Nationalisation Act, 1972 etc. was filed in this Court by the writ petitioners, Raneegunj Coal Association and another. In that writ petition, on July 6, 1973 the following order was passed by this Court :

"The amounts which have been recovered up to March 31, 1973 by the respondents from the sundry debtors of the petitioners towards realisation of these debts shall be deposited by the respondents in the Punjab National Bank, Calcutta in the cash credit account of the petitioners. This amount will be kept and earmarked separately and shall not be withdrawn by the petitioners nor adjusted by the Bank as against the amount due to the Bank from the petitioners, until the decision of the writ petition. In the event of the respondents failing to make good their contention in regard to the amount due to the petitioners from the sundry debtors the respondents shall pay to the petitioners the interest on the amount to be deposited in the Bank under this order with effect from today until the disposal of the writ petition. Interest shall be payable at the rate at which the Bank will charge the same to the petitioners. The respondents shall give to the petitioners within four weeks from today a copy of the statement of accounts as required under Section 22(b). The audit shall not be completed or certified until such a statement is given to the petitioners. Copy of the order to be sent to the Punjab National Bank, Calcutta."

3. It is apparent from the order extracted above that the petitioners, Raneegunj Coal Association and another, had a cash credit account in the Punjab National Bank, Calcutta. Although the direction of this Court was that the amount should be deposited by the respondents in the Punjab National Bank, Calcutta, in the cash credit account of the petitioners, the Bank credited the amount being Rs. 10,12,778.87 in a separate cash credit account bearing No. 640 on September 5, 1973.
4. The said Writ Petition No. 404 of 1972 was withdrawn and another writ petition was filed by the petitioners in this Court being Writ Petition No. 954 of 1977. The said writ petition along with a batch of other writ petitions was dismissed by this Court by its order dated September 18, 1986 (Lodha Colliery Co. Ltd. v. Union of India, 1986 Supp SCC 496) upholding the constitutional validity of the Coking Coal Mines (Nationalisation) Act, 1972 and the Coal Mines (Nationalisation) Act, 1973 as amended by the Coal Mines Nationalisation Laws (Amendment) Act,

1978.

5. It appears that after the disposal of the Writ petition, this Court passed the following order on September 24, 1987 on the agreement of Bharat Coking Coal Ltd. and the petitioners :

"Punjab National Bank, Lyons Range Branch, Calcutta, is hereby directed to hand over to the Commissioner of Payment for Coking Coal Mines, Camac Street, Calcutta, the sum of Rs. 10,12,778.87 (which was deposited in the cash receipt account of the petitioners on September 5, 1973, under the order dated July 6, 1973 of this Court) together with interest (calculated at the rate at which the Bank charge the same to the petitioners) from September 5, 1973 up to the date of payment to the Commissioner of Payment for Coking Mines. The said Commissioner will make disbursement of the amount so received by him in accordance with the provision of Coking Coal Mines (Nationalisation) Act, 1972."

6. By the said order dated September 24, 1987, this Court directed the Bank to hand over to the Commissioner of Payment for Coking Coal Mines, Camac Street, Calcutta, the said sum of Rs. 10,12,778.87 together with interest from September 5, 1973 up to the date of payment at the rate at which the Bank charged the same to the petitioners.

7. At this stage, it may be mentioned that the Punjab National Bank was not a party in any of these writ petitions and the said orders dated July 6, 1973 and September 24, 1987 were passed without the knowledge of the Bank. The Bank did not get any opportunity of being heard before the said order dated September 24, 1987 was passed directing the Bank to hand over the principal amount together with interest at the rate mentioned in the said order with effect from September 5, 1973 up to the date of payment.

8. After the Bank came to know of the said order of this Court directing it to pay interest on the said sum of Rs. 10,12,778,87, it made the present civil miscellaneous petition for direction.

9. It is the case of the Bank that, as directed by this Court by its earlier order dated July 6, 1973, it deposited the said amount of Rs. 10,12,778,87 in the cash Credit account which is in the nature of a current account and, as such, it is not liable to pay any interest on the said amount. On the other hand, it is the contention of the petitioners and the respondents including the Bharat Coking Coal Ltd., that the Bank is liable to pay interest. It is submitted by them that although this Court directed that the amount was to be deposited in the cash credit account, yet the intention of this Court was that it should be deposited in an account paying interest. The respondents have placed strong reliance on the subsequent order dated September 24, 1987 whereby this Court specifically directed the Bank to pay interest and also specified the rate of interest.

10. After giving our anxious consideration to the contentions made on behalf of the parties, we are of the view that the contention advanced on behalf of the Bank should be accepted. The order dated July 6, 1973 clearly directed that the amount should be deposited in the cash credit account. The Bank has produced before us photocopies of the relevant portions from the "Book of Instructions on Loans". In paragraph 1 at page 115 of the book, it is stated that cash credit account is a drawing account against credit granted by the Bank and is operated in exactly the same way as a current account on which an overdraft has been sanctioned. There can, therefore, be no doubt that a cash credit account is in the nature of a current account and no interest is payable in this account. As stated already pursuant to the said order dated July 6, 1973 of this Court, the Bank deposited the

amount in a separate cash credit account.

11. There is no indication in the said order dated July 6, 1973 that the amount should be deposited in an account other than a cash credit account. On the contrary, it was expressly directed that the amount should be deposited in a cash credit account. The Bank also understood that the direction of the court was to deposit the amount in the cash credit account and, accordingly, deposited the same in such an account. We are unable to accept the contention made on behalf of the respondents that although the Bank understood the sense of the order of this Court that the amount should be deposited in a savings account or any account other than cash credit account, it deliberately deposited the same in a cash credit account. The Bank, it appears to us, acted in accordance with the order of this Court and understood the same in the light of the express direction made by this Court. Indeed, it appears from the copies of the ledger entries produced before us by the Bank that the Bank had not credited any interest in the Cash Credit Account No. 640.

12. The subsequent order of this Court dated September 24, 1987, on which strong reliance has been placed by the respondents, does not at all lend any support to their contentions. The said order was passed by the consent of the writ petitioners and the respondents without the knowledge of the Bank and without giving the Bank any opportunity of being heard. After the said order was passed by this Court to the prejudice of the Bank, the Bank had to make the present civil miscellaneous petition for direction.

13. After considering the fact and circumstances of the case and the contentions made on behalf of the parties, we hold that the Bank is not liable to pay interest on the said amount of Rs. 10,12,778,87. The civil miscellaneous petition is allowed. There will, however, be no order as to costs.

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