

GAHC010138792023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3698/2023

RANJIT KR KAKOTY
(SUPERINTENDENT ENGINEER) RETIRED, S/O- LATE PADMADHAR
KAKOTI, R/O- VILL- DAICIAL GAON, P.O. DHULIAPAR, DIST.- SIVASAGAR,
ASSAM, PIN- 785640

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF
PETROLEUM AND CHEMICAL, GOVT. OF INDIA, NEW DELHI- 110001

2:THE CHAIRMAN CUM MANAGING DIRECTOR
OIL AND NATURAL GAS CORPORATION LTD.
JEEVAN BHARATI
TOWER-II
124-INDIRA CHOWK
CONNAUGHT PLACE
NEW DELHI- 110001

3:THE TRUSTEE
OIL AND NATURAL GAS CORPORATION LTD
POST RETIREMENT BENEFIT SCHEME
PRBS CELL
SHED NO.26 TEL BHAWAN
DHERADUN
PIN- 248001

4:THE EXECUTIVE DIRECTOR (HR)
OIL AND NATURAL GAS CORPORATION LTD. CAUVERY ASSET
NERAVY COMPLEX
KARAIKAL
PIN- 609604

5:THE EXECUTIVE OFFICER
PRBS TRUST
ONGC LTD
TEL BHAWAN
DEHRADUN
PIN- 248001 (UK)

6:THE BRANCH MANAGER
LIFE INSURANCE CORPORATION LIMITED
P AND GS DEPTT.
2ND FLOOR LIC BUILDING
NEW CANNAUGHT PLACE
CHAKRATA ROAD
G204
DEHRADUN PIN- 24800

Advocate for the Petitioner : MR. B PURKAYASTHA

Advocate for the Respondent : DY.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

25.04.2024

Heard Mr. B. Purkayastha, learned counsel for the petitioner. Also heard Mr. Abu Ahmed Hussain, learned counsel appearing for respondents nos. 2 , 3, 4 and 5 and Mr. A. L. Mandal, learned Standing Counsel, LIC of India for respondent no. 6.

2. The petitioner is before this Court praying for setting aside and quashing the communication dated 13.04.2023 issued by the LIC/respondent no. 6 with a further prayer to direct the LIC Authority to continue to pay the monthly installment at the rate of Rs. 20,461/- per month to the petitioner w.e.f.

01.04.2023.

3. The short case of the petitioner is that he was employed under the ONGC and in terms of a scheme of the ONGC with the LIC, the employees are given the option to purchase annuities from the LIC on the amount to be deposited by the ONGC and thereafter, they received monthly annuities after their retirement. The ONGC deposited Rs. 54,08,215.64/- (Rupees Fifty four lakhs eight thousand two hundred fifteen and sixty four paisa only) in so far as the petitioner is concerned to the LIC under the post retirement benefit scheme. The petitioner superannuated on 31.03.2017 and from 01.04.2017, the petitioner has been receiving the annuities under the post retirement benefit scheme. Annuities received are at the rate of Rs. 30,688/- (Rupees Thirty thousand six hundred eighty eight only) per month. Subsequently, the petitioner came to be aware that there was an option available to the writ petitioner to withdraw $\frac{1}{3}^{\text{rd}}$ of the amount deposited with the LIC and receive the balance on annuities. Since this clause was not made known to the writ petitioner, he approached this Court by filing a writ petition being WP(C)/913/2018. This writ petition came to be disposed of by the Co-ordinate Bench vide order dated 16.02.2023. This Court on the submissions made by the learned Counsel before the Court and passed a consent order disposing of the writ petition granting 10 (ten) days time to the writ petitioner to make appropriate application before the LIC Authorities by

marking a copy to the ONGC and upon receipt of such application, the LICI authorities will process the same and take appropriate decision for release upto $\frac{1}{3}^{\text{rd}}$ of the amount to the petitioner for his personal use by retaining the balance $\frac{2}{3}^{\text{rd}}$.

4. Pursuant to the disposal of the writ petition, the petitioner filed necessary application before the LICI with a copy to the ONGC. The LICI in response of the application filed, issued the impugned letter dated 13.04.2023. By the said letter, the LICI requested the petitioner to refund the excess amount drawn by way of annuity amounting to Rs. 7,26,117/- (Rupees Seven lakhs twenty six thousand one hundred seventeen only) in order to release the revised annuity payable to the petitioner. It is this communication which has been challenged before the Writ Court with a further prayer that the annuities payable to the petitioner have been stopped since the issuance of this letter, be directed to be released. That apart, it is the further claim of the writ petitioner against the ONGC that this gratuity payable to the writ petitioner had not been released.

5. The LICI has filed their affidavit disputing the claims of the petitioner and stating that since the $\frac{1}{3}^{\text{rd}}$ amount is required to be released to the petitioner, the excess amount drawn by way of annuity is to be refunded to the LICI in order to enable them to release the annuity as per the revised rate.

6. The ONGC also contested the matter stating that the petitioner has been receiving the annuities as per the scheme and pursuant to the order dated 16.02.2023 passed by the Co-ordinate Bench. The application for revised rate has been filed and the LIC authorities have agreed to release the 1/3rd amount subject to release of the excess amount drawn as annuity.

7. Although, it is not pleaded in the counter-affidavit filed by the ONGC, but during the course of the hearing, the learned counsel for the ONGC has placed before the Court relevant documents to submit that the claim of the gratuity made by the writ petitioner is also unwarranted as the amount of gratuity has already been released. The gratuity was originally released in the month of February 2017 for an amount of Rs. 13,34,685/- (Rupees Thirteen lakhs thirty four thousand six hundred eighty five only). Subsequently, there was a revision and on 30.04.2018, further amount of Rs. 10,00,000/- (Rupees Ten lakh only) was released to the petitioner. The payment of gratuity slip in respect of the writ petitioner has been placed before the Court and has been kept as part of the case record.

8. Having heard the rival submissions and also upon the careful perusal of the pleadings on record, this Court is of the view that the issue raised in the writ petition is within a very narrow campus. While it is correct that the petitioner

had been permitted to withdraw 1/3rd amount and prior to that in terms of the post retirement benefit scheme, the petitioner has been receiving the annuity at the rate of Rs 30,688/- (Rupees Thirty thousand six hundred eighty eight only), however, the step taken by the LICl cannot be faulted with in view of the fact that after release of 1/3rd amount, the annuity which is to be calculated, will have to be calculated taking into consideration the amount which the petitioner had been receiving since the inception.

9. Under such circumstances, the LICl is within its right to verify and take necessary steps for adjustment or recovery of the excess amount paid to the petitioner. However, the grievance of the petitioner is that pursuant to the release of 1/3rd amount by the LICl for continued release of the annuity at the revised rate, the LICl has requested the petitioner to refund the excess amount at the rate of Rs. 7,26,117/- (Rupees Seven lakhs twenty six thousand one hundred seventeen only) so that the annuity can be released. As on date, as the petitioner did not refund the amount of Rs. 7,26,117/- (Rupees Seven lakhs twenty six thousand one hundred seventeen only), the revised annuity has not been released and the petitioner is without any pensionary benefits in terms of the post-retirement benefit scheme.

10. This Court is of the view that if the LICl has arrived at a finding that the

excess amount is to be recovered, then the same can always be undertaken by recovering the said amount by making necessary adjustments from the annuities that are to be released to the petitioner on monthly basis. As such instead of demanding a refund of Rs.7,26,117/- (Rupees Seven lakhs twenty six thousand one hundred seventeen only), the LIC Authorities are at liberty to adjust this amount towards the monthly annuity on a monthly basis at the rate of 30% from the annuity. This revised amount of the monthly annuity will be released after deduction of the excess amount not greater than at the rate of 30% from the said revised monthly annuity, till such amount has been properly adjusted.

11. The release of the monthly annuity after deduction of the excess amount at the rate of 30% will be carried out as directed and the impugned communication dated 13.04.2023 will act as no Bar in compliance with the order as directed above. The arrear pension w.e.f. 01.04.2023 shall also be released after making necessary adjustments.

12. It is also recorded that the petitioner has already received his gratuity and no further claims survive in respect of Gratuity.

13. With the above observation, the writ petition stands disposed of. No order as to cost.

JUDGE

Comparing Assistant