

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11011 of 2012

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Awadhesh Kumar Roy, Son of Late Ram Naresh Roy, Resident of 208, Sunder Apartment, Near Nalanda Medical College & Hospital, P.O. - Bahadurpur Housing Colony, P.S. Agamkuan, District and Town- Patna

.... Petitioner

Versus

1. The Union of India through the Ministry of Petroleum, Government of India, New Delhi
2. Oil India Ltd., a Government of India Enterprise, through its Chairman & Managing Director, Plot No. 19, Sector 16-A, Noida- 201301, Uttar Pradesh
3. Senior Manager (Personnel), Plot No. 19, Sector 16-A, Noida - 201301, Uttar Pradesh
4. Oil India Ltd., Terminal Office, situated at Barauni, District - Begusarai in the State of Bihar
5. Secretary, Oil India Employees Pension Fund, P.O. Duliajan, Dibrugarh (Assam)

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajeev Ranjan Prasad, Advocate
Mr. Sudhanshu Trivedi, Advocate
Mr. Abhishek Singh, Advocate
For the Respondents : Mrs. Shama Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 13-12-2016

This writ application has been filed by the petitioner for directing the respondents to settle the pension account and pay the entire pensionary benefit to the petitioner in accordance with the provisions of the Oil India Employees Pension Scheme, 1995 (For short 'EPS 1995') as framed under the provisions of the Employees



Provident Fund and Miscellaneous Provisions Act with statutory and penal interest for the delayed period.

2. The petitioner had joined the service of Oil India Pvt. Ltd. from 23.03.1983 and served the said organization in various capacities as a Civil Engineer. In the year 2001, the Oil India Pvt. Ltd. Company (For short 'the Company') came out with a Voluntary Retirement Scheme. The petitioner exercised his option and took voluntary retirement from service of respondent No.2. He was released from the service of the respondent No.2 on 19.05.2001.

3. It is contended by the learned counsel for the petitioner that at the time of taking voluntary retirement, the petitioner was a member of EPS, 1995 and was regularly depositing his contribution to the said fund. It is further contended that having taken voluntary retirement on 19.05.2001, the petitioner attained 50 years of age on 03.04.2009 and, therefore, he became eligible for pension under the new pension scheme. He made a representation on 10th August, 2009 to the Senior Manager (Personnel) whereby he requested him to look into the matter towards settlement of pension and release of accumulated pension, but was informed by the respondents that since he was not a member of EPS, 1995, he was not entitled for any pension.



4. It is contended that denial of the benefits of the pension scheme to the petitioner by the respondents is wholly illegal and arbitrary.

5. *Per contra*, learned counsel for the respondent Company submits that the petitioner was never ever member of the EPS, 1995. As per the said scheme, the contribution of a member is to be recovered from the employers' contribution to the provident fund only. In case of the petitioner, the employer's contribution towards EPS, 1995 in the provident fund account of the petitioner was never deducted. She has contended that the scheme of EPS become effective only after December, 2002 with retrospective effect from 1995 and by this time the petitioner had already left the organization and the amount of contribution was refunded back to him on 05.11.2001.

6. It has further been contended by the learned counsel for the Company that during the period 1995 to 2002 certain amounts on *ad hoc* basis were recovered from the salary of the employees for the purpose of contribution to the scheme. The amounts so recovered were refunded to all the contributing employees on the basis of option exercised by them i.e. either refunded through salary or deposited in the EPF Account. The action was taken as there was no scheme of EPS in place at that



point of time. My attention has also been drawn towards several clauses of the EPS, 1995 in order to show that the petitioner was not eligible to receive benefit under the scheme.

7. In reply, learned counsel for the petitioner has submitted that the petitioner is entitled to receive pensionary benefits in terms of clause 4.1 of the Trust Rules of the Pension Fund.

8. I have heard learned counsel for the parties and perused the record.

9. The claim of the petitioner for pension is based upon Clause 4.1 of the Trust Rules of the Oil India Employees' Pension Fund, which reads as under:-

“On exit of a Member before rendering 10 years of service, the contribution lying to the credit of member, together with suitable rate of interest thereon shall be returned to the Member.”

10. In my opinion, aforesaid clause 4.1 would be of no help to the petitioner as it only prescribes that on exit before rendering 10 years of service, the contribution lying to the credit of a member together with suitable rate of interest thereon shall be returned to the member. The respondents have categorically stated in their counter affidavit that an amount of Rs. 1,16,561/- was paid to the petitioner towards refund of his contribution which was



deducted from his salary for the period of November, 1995 to the date of separation in the year 2001 drawn on Corporation Bank, Jodhpur. In my opinion, once the petitioner took back his contribution in 2001 after taking voluntary retirement on 19.05.2001 without any protest, he would not be entitled to raise such dispute for payment of pensionary benefit after more than a decade on the ground that he became entitled to receive pension on attainment of 50 years of age. Further, in terms of EPS, 1995, the petitioner ought to have continued in service at least till December, 2002 in order to receive pension. Admittedly, the petitioner took voluntary retirement in the year 2001 and, hence, he cannot be held entitled pension under the EPS, 1995.

11. In that view of the matter, I find no merit in this application. Accordingly, the writ application is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.12.2016
Transmission Date	NA

