23-07-2021
Item no.1
Subrata

IN THE HIGH COURT AT CALCUTTA

Special Jurisdiction
Appellate Side

CPAN No.433 of 2020
Mr. Arani Mukhopadhyay
-vs-
Sri Navendu Rai & Ors.
with
CAN No.1 of 2020
arising out of
FMA No.1756 of 2019

Mr. Anirban Kar …for the petitioner

Mr. Shiv Chandra Prasad …for the PF authorities

Mr. S.R. Saha …for the Statesman

At the time we passed our earlier orders, we had determination over the appeal as well as the contempt application.

Now, the determination to hear the appeal is with another bench. We have only considered the application for contempt.

We have been apprised by Mr Prasad, learned advocate appearing for the provident fund authorities, that in compliance with the order of this court, the date of retirement of the petitioner from the Statesman Limited has been corrected. According to the records, it is now 15th October 2006.

Mr Kar, learned advocate appearing for the petitioner, submits that our order has not been complied with by the provident fund authority, and that pension at a revised rate is not being paid to his client, although belatedly the date of exit of the petitioner from employment

has been corrected in the records of the provident fund authorities.

What is more important are the following. The date of birth of the petitioner is 2nd January 1947. According to para.6A of the Employees' Pension Scheme, 1995, a member of the employees' pension fund can only continue to be such till the age of 58 years.

Now, the petitioner reached this age on 1st January 2005.

Therefore, the basis on which pension is calculated can only be up to 1st January 2005.

Mr Prasad submits that on this basis, pension has been paid to the petitioner and is being paid to him.

He also submits that before his date of retirement is corrected, it was 2nd April 1999. The petitioner's employer, according to Mr Prasad, made the provident fund deposit only up to 2nd April 1999. They did not make any further deposit. His pension is being paid on the basis of such deposit.

Furthermore, he has handed up to this court a document dated 22nd January 2021 which states that from April 1999 to September 2006 his employer paid Rs.13,15,000/- as settled retirement benefit.

There is much substance in the contention of Mr Prasad that the rate at which pension is payable is as on 1st January 2005, and that it cannot be revised taking latter years for the purpose of calculation.

At any rate, whether at all pension should be paid at a revised rate and the year from which the said rate should be calculated and the arrear, if any, can be adjudicated in

the appeal.

We dispose of this contempt application – **CPAN No.433 of 2020** – by observing that there seems to be no violation of the order of this court by the provident fund authorities, although there is delayed compliance for which Mr Prasad has tendered unqualified apology, which is accepted.

All points in the application, not decided by us, is kept open to be agitated in the pending appeal.

CAN No.1 of 2020 is consequently disposed of.

[I.P. Mukerji, J]

[Md. Nizamuddin, J]