

01-09-2021
ct no. 23
Sl. 09
Sayandeep

W.P.A. 11910 of 2021

Pranab Kumar Chatterjee & Ors.

-Versus-

Eastern Coalfields limited & Ors.

(Via Video Conference)

Mr. Nirmalendu Ganguly

...for the petitioners

Mr. Mr. Somnath Basu

....for ECL

Mr. Kallol Guha Thakurata

Mr. Bodhisatta Basu

Ms. Shreyasi Manna

....For the Resondent No. 4

The petitioners say that their father Prabodh Kumar Chatterjee while serving at Eastern Coalfields Limited (in short ECL), the respondent No. 1 died on 26th February, 1975. The writ petition has been filed on 26th July, 2021 inter alia claiming the retiral benefits of the deceased father of the petitioners. Records reveal that the petitioners applied for release of the provident fund money said to be due to their father after an interval of 25 years. The claims made by the petitioners were forwarded to the Regional Commissioner, Coal Mines Provident Funds (in short CMPF) on 22nd December, 2000. The petitioners' prayer was rejected by the Assistant Commissioner-1 CMPF on 23rd May, 2003. Nothing

appears from the record to have been done by the petitioners between 2003 and 2020. The earliest representation and/or the demand notice issued by the petitioners is dated 28th December, 2020. This was received by the respondent authorities (as appears at page 21 of the writ petition) on 1st, January, 2020. The next document is dated 18th January, 2021. This is a demand notice written by an advocate on behalf of the petitioners claiming the provident fund amount of the petitioners' father. It is therefor apparent that the first application for release of the provident fund was made after 25 years. This prayer was rejected in 2003. The petitioners did not take any steps between 2003 and 2021 till the writ petition was filed save and except the demands notices respectively on 20th December, 2020 and 18th January, 2021. Although it is the responsibility of the employer to pay the provident fund amount and other benefits to the legal heirs of the deceased employee immediately upon the same falling due or within a reasonable period of time therefrom require to process the claims but at the same time it is the duty of the legal heirs to claim for release of such money if the same is not paid within a reasonable period of time. Although delay in claiming the benefits is not always fatal but in the instant case, the demand was made by the legal

heirs of the deceased after 25 years. This period of 25 years cannot be construed to be a reasonable period within which a claim can be lodged. Assuming without admitting that this delay did not disentitle the petitioners from receiving the retiral benefits of their deceased father then also the period between 2003 and 2021 being the date of rejecting the claim and the date when the writ petition was filed is over 17 years which remains unexplained. This delay in approaching the Court is purely attributable to the petitioners and has to be construed as laches on their part. Following the ratio laid down in the Judgment reported in (2016)13 SCC 797 [***Asger Ibrahim Amin Vs. Life Insurance Corporation of India***]. The claim of the petitioners cannot be entertained in writ jurisdiction. Even though a direction to consider the petitioners' claim afresh after about 46 years may not effect any third party right but for the delay and laches as aforesaid I am not inclined to pass any order even directing the respondents to consider the claim of the writ petitioners. 46 years have elapsed between the death of the petitioners' father and filing of the instant writ petition. This inordinate delay is laches on the part of the petitioners for which it cannot also be said that the non-payment of provident fund dues cannot be

said to be a continuing wrong in absence of any assertion of right if any.

The instant writ petition is therefore dismissed without any order as to costs.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, is to be given to the parties upon compliance with the necessary formalities.

(Arindam Mukherjee, J.)