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29.04.2022
Court No. 23
d.g.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 1658 of 2020

Syam Prasanna Ghosh
Vs.
Union of India & Ors.

Mr. Shamit Sanyal,
Ms. Manika Ray.

... for the petitioner

Mr. Kumarjyoti Tewari.

... for the respondent nos. 1, 2 & 3

Mr. Sauvik Nandy.

.... For the BOPT

The petitioner joined the Great Eastern Hotel under Government of West Bengal on 3rd December, 1986 and continued therein up to 29th February, 1988 as the Chief Accounts and Finance Officer. The petitioner on his resignation being accepted on 29th February, 1988 left the services of the Hotel and joined the office of Board of Practical Training (Eastern Region) (in short 'BOPT') on 1st March, 1988. The petitioner while serving the Great Eastern Hotel had exercised his option to receive benefits under Contributory Provident Fund (in short 'C.P.F.'). After joining B.O.P.T., the petitioner intended to shift from C.P.F. to the General Provident Fund scheme (in short 'G.P.F.'). The petitioner says that his option was not adhered to by B.O.P.T. and, as such, he continued to remain under C.P.F. The petitioner retired from the service of B.O.P.T. on 31st January, 2010. On his retirement, the petitioner was paid the benefits in accordance with the C.P.F. scheme.

The petitioner says that since he had opted for and/or expressed his intention to go under the G.P.F. scheme, he should have been extended the benefits of such scheme. The employer having not done so, the petitioner has approached this Court by filing the instant writ petition on 24th January, 2020, inter alia, for a direction upon the respondent no. 4 to pass necessary orders for providing pension to the petitioner with effect from 1st February, 2010. Although, the petitioner has approached this Court at a belated stage but for his last employer of B.O.P.T. having on 2nd July, 2018, requested the Department of Higher Education, Ministry of Human Resources Development, Government of India to give B.O.P.T. necessary instruction with regard to the petitioner's claim for pension it cannot be said that the writ petition have been filed at a belated stage or there is inordinate delay or laches on the part of the petitioner to summarily reject the writ petition .

The writ petition, therefor, cannot be dismissed on the ground of inordinate delay and laches. That a part, in any event, belated claim for retiral benefits have been held not to be fatal.

Taking a lenient view, regarding the petitioner's claim, I direct the respondent no. 2 to take a decision as regards the petitioner's claim for pension and being considered under the G.P.F. scheme within a period of four months from the date of communication of a server copy of this order and instruct the Board of Practical Training (Eastern Region) about the further steps, if any, to be taken in terms of the decision.

The respondent no. 2 shall decide the issue in an independent manner without being influenced by any observation made in this order.

I make it clear that I have not gone into the merits of the petitioner's claim while disposing of the writ petition.

It is also made clear that directing the respondent to consider the petitioner's claim will not make alive the the petitioner's substantive claim to receive benefits under the G.P.F. Scheme had stood extinguished prior to passing of the instant order.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

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

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

(Arindam Mukherjee, J.)