S/l. 7
21.06.2022
Subha

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 4255 of 2022

Arup Kumar Dutta
-versus-
The Coal India Limited & Ors.

Mr. Malay Bhattacharya,
Ms. Shefa Mondal
…for the petitioner.

Mr. Indradeep Pal
…for the ECL.

Mr. Kallol Guha Thakurta
…for the respondent no. 4.

The petitioner joined the services of Eastern Coalfields Limited(in short, ECL) on 20th June, 1986. The petitioner tendered his resignation, which was accepted by his employer with effect from 31st October, 2018. The petitioner says that his service was discontinued actually on and from 9th January, 2019. The petitioner says that though he has worked for more than 30 years, but is being paid only 94% of his full pension though he is entitled to full pension. The petitioner also says that by computing the pension taking into account the entire qualifying service the pension of the petitioner should have been 100%.

The report filed on behalf of the respondent nos. 1, 2 & 3 in court today is taken on record.

After considering the writ petition and the report filed on behalf of the respondent nos. 1, 2 & 3 and a separate report filed on behalf of the respondent no. 4, I find that the petitioner's service was governed by the provisions of the Coal Mines Pension Scheme, 1998. Regulation 2(o) defines "pensionable service" and Regulation 10 speaks of monthly pension. The petitioner in order to receive the full pension is required to come within the ambit of Regulation 10(1) which requires two criteria to be fulfilled i.e., 30 years of pensionable service and on attaining the age of superannuation. It is correct that the petitioner completed 30 years of pensionable service, but he tendered his resignation prior to attaining the age of superannuation. Although, the resignation was accepted but the same was prior to the age of superannuation. Admittedly, the petitioner tendered his resignation prior to superannuation and at that point of time he was left with service of about 2 years. On having resigned before attaining the age of superannuation, the petitioner does not come within Regulation 10(1) even though he has completed 30 years of pensionable service. Once the petitioner is out of Regulation 10(1), the petitioner becomes entitled to receive pro rata pension. Regulations 10(2), 10(3) and 10(4) of the said Scheme do not exactly fit in the petitioner's case. However, the nearest applicable regulation is Regulation 10(3). According to my reading of Regulation 10(3), the petitioner does not satisfy the second limb, though he fulfils the first criteria. Admittedly, the petitioner after completing 10 years of pensionable service had been left with more than twenty years of service on the date of attaining the age of superannuation and as such, the petitioner's case does not strictly fall within Regulation 10(3). The petitioner, in any event, has to be provided with pension for serving more than 31 years in ECL. The calculation of the petitioner's pension has to be, in my view, made by applying the provisions of Regulation 10(3) as far as practicable. By applying the mode of computing as specified in Schedule – 2 of the said scheme, I do not find any anomaly in the pension now being paid to the petitioner. Taking into account all these factors, I find that there is no scope of any interference in the matter so as to grant the petitioner relief for getting 100% pension.

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

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

(Arindam Mukherjee, J.)