25.04.22
08 Ct. No.11
Sws.M

MAT 427 of 2022
with
I.A. No. CAN 1 of 2022

Eastern Coalfields Ltd. & Anr.
Vs.
Archana Kora & Ors.

Mr. Biswaroop Bhattacharya
Ms. Priti Banerjee
....for the Appellants
Mr. Nirmalendu Ganguly
Mr. Anshunath Chakraborty

......for the Respondent Nos. 1 & 2

Mr. Kollol Guha Thakurata
Mr. Sayantan Banerjee

......for the Respondent No. 3

Party/Parties is/are represented in the order of their name/names as printed above in the cause-title.

This is an appeal against the order passed by the Hon'ble Single Judge in WPA 19457 of 2021 dated 14th February, 2022. In the impugned order, the Hon'ble Single Judge had passed an order directing the respondents to pay the principal amount on account of gratuity being Rs.76,329/- with accrued interest @10 percent per annum, being the statutory rate under the Payment of Gratuity Act, 1972 and LCS of Rs. 40,000/- along with accrued interest @ 6 percent per annum on such principal sum, interest on both the sum to be paid on and from 18th April, 2003 till actual payment. ECL shall also pay the interest on the arrears of family pension, being Rs.1,17,197/- @ 6 percent per annum on and from 18th April, 2003 to 2nd August, 2018.

The Hon'ble Single Judge has further passed an order with regard to CMPF, the principal sum of Rs.2,37,505/- fell due on 18th April, 2003 but was actually paid on 27th January, 2011. The learned Single Judge had directed the respondent No. 3 to pay interest @ 7 percent per annum on and from 18th April, 2003 to 27th January, 2011.

In compliance with the order passed by the Hon'ble Single Judge the appellants have paid an amount at Rs.1,16,329 being the principal amount of Gratuity and Life Cover Scheme but have not paid the interest part.

The learned Counsel for the appellants submits that the Hon'ble Single Judge without giving an opportunity of hearing to the appellants of filing an Affidavit-in-Opposition had passed an order directing the appellants to pay interest.

Learned counsel for the appellant submits that the respondent/writ petitioner has not made any application in proper format within statutory time as provided in the payment of Gratuity Rules, Coal Mines Pension Scheme, 1998 and Rules, Coal Mines Pension Scheme, 1998 and Coal Mines Family Pension Scheme, 1971.

Learned counsel for the appellant further submits that the Coal Mines Pension Scheme, 1998 and Coal Mines Family Pension Scheme, 1971 specifically suggests that disbursement of family pension of a deceased employee is within the domain of pension sanctioning authority being the proforma respondent no.3.

Learned counsel for the appellant further submits that the appellants have only liability to contribute to the pension fund every month while crediting the salary of employee.

Learned Counsel for the appellants prays for stay of the operation of the impugned order.

Per contra, learned Counsel for the respondent/writ petitioner submits that the respondent is an old aged Tribal widow and since the year 2003, i.e. since after the death of her husband is approaching the appellants for grant of family pension and other benefits but the appelants have started family pension only from 2nd August 2018. The appellants have paid Coalmines Provident Fund on 27.04.2011.

The counsel for the respondent further submits that there was a delay in making the payment of pensionary benefits and settling the dues which the respondent is not at all responsible, is entitled to get interest on delayed payment and the Hon'ble Single Judge has rightly granted interest in favour of the respondent.

The learned Counsel for the respondent relied upon a judgment reported in *AIR 2000 SC 3513(2)* in the case of *Vijay L. Mehrotra vs. State of U.P. and Others* and submits that the Supreme Court has categorically directed for delay in payment of the pensionary benefit the authorities are liable to pay the interest.

Heard learned Counsel for the parties and documents available on records.

The Learned Single Judge before passing the impugned order has called for report from the appellant no.1, Eastern Coalfields Limited and in the report it is categorically mentioned that Coal Mines Provident Fund was paid to the respondent only on 27.01.2011 and have started paying family pension from 02.08.2018 and arrears of family pension was paid only on 02.08.2018. The appellants have not paid Gratuity and Life Cover Scheme to the respondent.

The husband of the respondent who was the employee of the appellants died in harness on 17.04.2003. It is the duty cast upon the appellants to release family pension, gratuity and other benefit to the family of the deceased employee well within time.

In the instant case, the husband of the respondent died in harness and it is not the case that the appellants for want of documents from the respondent and respondent has not supplied the same, delay was occurred.

The husband of the respondent died in harness in the year 2003 and the appellants have released family pension only in the year 2018 i.e. after the period of 15 years.

In view of the above, we are of the view that the Hon'ble Single Judge has rightly passed an order by directing the appellants to pay the benefits to the respondent along with interest and thus the impugned order does not require any interference.

Accordingly, **MAT 427 of 2022** and **I.A. No. CAN 1 of 2022** is thus **dismissed.**

All parties to act on a server copy of this order downloaded from the official website of this Court.

Urgent certified photocopy of this order, if applied for, will be made available to the parties subject to compliance with all requisite formalities.

(Krishna Rao, J.) **(Subrata Talukdar, J)**