

APO/174/2008
WITH
WPO/1395/2003

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

STATE BANK OF INDIA AND ORS.
Versus
SRI KALYAN CHAKRABORTY AND ANR.

Before:

The Hon'ble Justice I. P. MUKERJI

And

The Hon'ble Justice SUBHENDU SAMANTA

Date: 30th August, 2022.

Appearance:

Mr. Sudeep Pal Chaudhuri, Adv.

Mr. Ashim Kr. Routh, Adv.

Ms. Ananya Mondal, Adv.

Ms. Manishka Dhar, Adv.

The Court : An affidavit of service is on record showing compliance with our order dated 17th June, 2022 for effecting service of the appeal papers on the respondents.

None appears for the respondents who are the legal heirs and representatives of the original writ petitioner.

The writ application challenged the order of discharge made by the appellants against the original writ petitioner. Under it the original writ petitioner was only entitled to provident fund and gratuity. Other retirement benefits stood forfeited.

The challenge against this order of discharge succeeded before a learned single judge of this court in a writ application preferred by the original writ petitioner.

By a judgment and order dated 6th March, 2008 by which time the original writ petitioner had expired and the respondents were substituted as parties in his place and stead, the impugned discharge from service order was quashed and the respondents were directed to be paid the 'terminal benefits' of

the original writ petitioner which would include gratuity, casual leave allowances, three months' salary for discharge, casual leave encashment provident fund accumulated and pension from 1st October, 1995 till the date of death of the original writ petitioner.

State Bank of India preferred this appeal from this judgment and order before a division bench of this court.

At an earlier stage of the appeal on 2nd June, 2008 the court, relying on State Bank of India v. Workmen of State Bank of India reported in AIR 1990 SC 2034, held that the respondents could only be entitled to provident fund and gratuity.

Mr. Routh, learned counsel for the appellant, submits that the respondents having taken a substantial amount of the retirement benefits of the original writ petitioner in the form of provident fund accumulation and gratuity, and have lost interest in this litigation.

It appears to us that apart from provident fund and gratuity, the respondents do not want to pursue other claims of the original writ petitioner. That is why, his heirs the respondents have not come forward to contest this appeal.

Recording the above, we dispose of this appeal by modifying the impugned judgment and order to the extent that the respondents herein would only be entitled to provident fund and gratuity of the original writ petitioner and also recording the submission of Mr. Routh, learned advocate, that they have received the amount.

(I. P. MUKERJI, J.)

(SUBHENDU SAMANTA, J.)