

Ct. No. 14
20.04
2023
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W.P.A. 742 of 2022

Dr. Souvik Chattopadhyay
-Versus-
Union of India & Ors.

Mr. R. Chatterjee
Mr. Aniruddha Mitra **...For the Petitioner**

Mr. Billwadal Bhattacharyya,
Deputy Solicitor General of India,
Ms. Hasi Saha **...For the Respondent Nos. 1, 2 & 3**

Having heard learned Counsels appearing for the parties I think that for proper adjudication of the writ petition, the Secretary (Higher Education), Ministry of Education, Shastri Bhawan, New Delhi-110 001 should be impleaded as a party respondent to this writ petition.

Accordingly, in exercise of power under Order 1 Rule 10(2) of the Code of Civil Procedure, the Secretary (Higher Education), Ministry of Education, Shastri Bhawan, New Delhi-110 001 is impleaded as respondent No. 4 to the writ petition.

Leave is given to the learned Advocate for the petitioner to carry out the amendment here and now.

The petitioner is a Professor of IIT Kharagpur since 3rd September, 2004. In terms of his offer of appointment, the petitioner opted for coverage under General Provident Fund-cum-pension-cum-gratuity scheme and IIT Kharagpur accepted such offer of him. Thereafter, General Provident Fund contribution was deducted from his salary.

The petitioner complains that by two communications dated 18th November, 2021 and 12th January, 2022, IIT Kharagpur indicated that he would be governed by the New Pension System (NPS) unless the IIT

Madras where he was employed for sixteen months, transferred his servicer record relating to pensionary benefits to IIT Kharagpur.

The petitioner submits that he has been under the General Provident Fund-cum-Pension-cum-Gratuity Scheme since date of his appointment. As such, he submits that there is no basis for the sudden decision of the authority to switch him to the New Pension System (NPS).

Mr. Chatterjee, learned Counsel appearing for the petitioner submits that his client challenges the decision of the Authority concerned on the doctrine of promissory estoppel.

Mr. Billwadal Bhattacharyya, learned Deputy Solicitor General, submits that he has obtained instruction from the senior law officer, IIT Kharagpur with regard to the Memorandum dated 3rd March, 2023 issued by the Department of Pension and Pensioners Welfare, Government of India vide a communication dated 18th April, 2023. Learned Counsel submits that as per the communication, IIT Kharagpur has not yet received any concurrence of the aforesaid office memorandum from the ministry of Education regarding its applicability to the Institute employees.

Having heard the learned Counsels appearing for the parties and on consideration of the Memorandum dated 3rd March, 2023 and the communication dated 18th April, 2023 handed up by Mr. Bhattacharyya before the Bench I feel that the writ petition may be disposed of by passing the following order.

The petitioner is allowed to make a comprehensive representation to the newly added respondent No. 4, the Secretary (Higher Education), Ministry of Education, New Delhi seeking the reliefs as sought for by him in the writ petition within three weeks from date. After receiving the representation, the Secretary (Higher Education), Ministry of Education shall depute a competent Officer and direct the officer to consider and dispose of the representation of the petitioner by a reasoned order upon giving an opportunity of hearing to the petitioner or his representative and representative of the IIT Kharagpur within eight weeks from the date of receipt of such representation.

Once the order is passed, the respondent No. 4 shall communicate the order to the petitioner and the IIT Kharagpur within seven days from the date of passing the order.

Since this Bench has not entered into the merits of the case, all the points raised by the parties including the maintainability of the writ petition shall remain open.

With the aforesaid directions the writ petition stands disposed of.

There will be no order as to costs.

All parties may act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat copy of the order, if applied for, be supplied to the parties on priority basis on compliance of necessary formalities, on priority basis.

(*Rabindranath Samanta, J.*)