

S/L 107
04.05.2023
Court. No. 12
Sourav

WPA 7232 of 2021

Birendra Nath Roy
Vs.
Eastern Coalfields Limited & Ors.

Mr. Dilip Kumar Chatterjee
Mr. Durga Bhusan Mukherjee

...for the petitioner.

1. Writ petitioner is represented by his learned advocate. Mr. Dilip Kumar Chatterjee, learned advocate duly assisted by Mr. Durga Bhusan Mukherjee, learned advocate for the writ petitioner has handed over an affidavit-of-service in view of the direction of this Court as passed on 28.11.2022.
2. Since none appears on behalf of the respondents i.e., Eastern Coalfields Limited and its officials in spite of service, this Court proposes to dispose of the instant writ petition in absence of the respondents.
3. Heard Mr. Chatterjee, learned advocate for the writ petitioner at length.
4. The present writ petition is now taken up for passing appropriate order.
5. By filing the instant writ petition under Article 226 of the Constitution of India, the writ petitioner has prayed for issuance of writ of mandamus directing the respondents to refund a sum of Rs. 4,04,399/- together with prevailing rate of interest which according to the writ petitioner has been unlawfully deducted from the dues of the writ petitioner at the time of his superannuation.

6. In support of the instant writ petition, Mr. Chatterjee, learned advocate for the writ petitioner at the very outset draws attention of this Court to the Annexure P-1 of the instant writ petition being the photocopy of the Admit Card in the name of the writ petitioner as issued by West Bengal Board of Secondary Education. It is contended by Mr. Chatterjee, learned advocate for the writ petitioner that from the said Admit Card which is considered to be an authenticated document of proof of age, it would reveal that the present writ petitioner was born on 01.07.1955. Drawing attention to Annexure P-3 of the writ petition, it has been submitted on behalf of the writ petitioner that in the service book as maintained by the respondents, the date of birth has been written in the following manner: '21 years as on 20.06.1977'. According to the writ petitioner, such discrepancy of date of birth came to the notice/knowledge of the writ petitioner in the year 1987 and on 02.05.1987, the writ petitioner made a prayer with the respondent authorities to correct his date of birth in his service book but of no avail.
7. It is further submitted by Mr. Chatterjee, that if the writ petitioner's date of birth is properly rectified by the respondent authorities, the writ petitioner's actual date of superannuation would be 01.07.2016. But on account of the mistaken entry in the service book, he was made to retire with effect from 30.06.2015, though he rendered his service till

09.12.2015 since he was not given any prior notice with regard to his superannuation. It is further submitted by Mr. Chatterjee that all on a sudden by issuing an office Order No. ECL/C-5(D)/Order/Excv/EE/452 dated 18/19.02.2016, the Senior Manager of the respondent authority passed an order that the date of superannuation of the present writ petitioner would be on 30.06.2015 and in the said order, it has been directed that all dues payable on superannuation may be paid to the writ petitioner after necessary adjustment.

8. It is submitted on behalf of the writ petitioner that while disbursing the retiral dues to the writ petitioner, the respondent authorities have unnecessarily deducted a sum of Rs. 4,04,399/- without considering the fact that the actual date of birth of the present writ petitioner is 01.07.1955 and thus his actual date of superannuation would be on 01.07.2016 and that he actually worked with the respondent authorities till 09.12.2015. It is further argued that in spite of making several representations since 1987, no fruitful result yielded till date and thus finding no other alternative, the writ petitioner has approached this Court with the prayer as mentioned in the writ petition.
9. On perusal of the entire materials as placed before this Court and after hearing Mr. Chatterjee, learned advocate for the writ petitioner, this Court considers that justice would be sub-served if the respondent no.

2 i.e., the Chairman-cum-Managing Director, Eastern Coalfields Limited, a subsidiary of Coal India Ltd., Sanctoria, Post Office – Dishergarh, District – Paschim Bardhaman, Pin – 713333, is directed to consider the instant writ petition as a representation of the present writ petitioner with a further direction to the respondent no. 2, i.e., Chairman-cum-Managing Director of the respondent no. 1 authority to dispose of the said representation of the present writ petitioner after giving an opportunity of hearing to the present writ petitioner within three months from the date of communication of this order.

10. Ordered accordingly.
11. With the aforementioned observation, the instant writ petition being **WPA 7232 of 2021** is disposed of.
12. Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Partha Sarathi Sen, J.)