

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 11278 of 2023

Dilip Kumar Das

Vs.

The Regional Provident Fund Commissioner & Ors.

Mr. Purnasish Gupta

Mr. Jayanta Mukherjee

... For the petitioner.

Ms. Aparna Banerjee

... For the provident fund authorities.

Mr. Ranjay De

Mr. Basabjit Banerjee

... For the respondent no.4.

1. The present writ petition has been filed, *inter alia*, praying for a direction upon the provident fund authorities to settle the dues of the petitioner relating to his provident fund and pension.

2. It appears that the petitioner was an employee of Tata Oil Mill Company Limited (TOMCO). It is the further case of the petitioner that TOMCO was closed down and the petitioner and other employee employed at TOMCO were transferred to Kalyani Soap Industries Ltd., being the respondent no.3 herein, since May, 1992. Unfortunately, the said Kalyani Soap Industries Ltd. had also closed down in the year 1998.

3. Mr. Gupta, learned advocate representing the petitioner by drawing attention of this Court to a letter dated 20th September, 1999 submits that the respondent

no.3 had duly acknowledged the fact that the family pension of the petitioner had not been settled, although, a representation was made by the said Kalyani Soap Industries Ltd. to the Regional Provident Fund Commissioner to look into the matter, no further steps appears to have been taken by the said respondent. He submits that the petitioner cannot be made liable on the ground of failure on the part of the respondent no.3 to file returns since, on regular basis deduction had been made from the petitioner's salary account. Although, a representation was made no action has been taken on the basis thereof.

4. Ms. Banerjee, learned advocate representing the provident fund authorities submits that the petitioner is yet to file Form 10C for withdrawal of pension amount and denies and disputes the submissions made by the petitioner.

5. Heard the learned advocates appearing for the respective parties and considered the materials on record. Since, it appears that the representation made by the petitioner remains unanswered, at this stage, without going into any controversy, I am of the view that the present writ petition can be disposed of by permitting the petitioner to make an appropriate representation with the respondent no.2.

6. If such representation is made within a period of

four weeks from date, the respondent no.2 shall hear out and dispose of the petitioner's representation after giving the petitioner an opportunity of hearing and by passing a reasoned order.

7. It is, however, made clear that while disposing of the representation, if the respondent no.2 is of the opinion that the petitioner is required to make any application, he shall duly intimate the same to the petitioner for the petitioner to take appropriate steps so that the family pension can be disbursed in his favour, provided the petitioner is entitled to the same. The entire exercise must be completed within a period of eight weeks from the date of receipt of the petitioner's representation by the respondent no.2. All parties are directed to cooperate for completion of the aforesaid process.

8. With the aforesaid observations/directions, the writ petition stands disposed of.

9. Since, I have not called for any affidavits, allegation made in the writ petition are deemed not to have been admitted by the respondents.

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

(Raja Basu Chowdhury, J.)