13.07.23

74 Ct. No.25

Sws.M

WPA 11044 of 2022

Ranjit Kumar Ghosh & Ors.
vs.
National Jute Manufacturing Corporation Limited & Ors.

Mr. Sambhu Nath De
...for the petitioner
Mr. Rajib Ray

...for the respondent No. 3
Mr. Dibashis Basu
Mr. Arun Bandyopadhyay
...for the Union of India

The petitioners claimed their provident fund dues upon voluntary retirement from the employers' service sometimes in or around 2011. The petitioners were working with the National Jute Manufacturing Corporation Limited (NJMCL). It is that grievance of the petitioners that despite retirement prior to more than a decade before the petitioners were paid their legitimate balance provident fund dues.

The petitioners claimed such balance provident fund dues pursuant to a resolution dated August 22, 2016.

Mr. Basu, learned counsel appearing on behalf of the respondent No. 2/ NJMCL/employer submits that a sum of Rs.1,86,02,698.16/- is already lying with the respondent No. 3/the Regional Provident Fund Commissioner for payment of the employees.

He also draws the attention of this Court to the resolution of the Board of Trustees of the Union Jute Company Limited (North) Provident Fund Trust. Pursuant to the resolution dated February 11, 2019, the Board of Trustees recorded that as per their resolution dated February 7, 2019, the Bank Manager, SBI was requested to transfer the balance sum lying in special deposit schemes maintained with SBI to the Central board of Trustees, EPFO. Therefore, he submits that either the EPFO has received any balance amount over and above the amount of Rs.1,86,02,698.16/- or it is the responsibility of the Bank Manager, SBI to release such amounts in favour of EPFO. The respondent No. 2 should not be held liable for the balance sum of Rs.91,47,336.84/- or any part thereof.

Mr. Ray, learned counsel appears on behalf of the respondent No.3 and submits that the balance sum of Rs.91,47,336.84/- was not handed over by the respondent No. 2 to the respondent No.3. Therefore, the legitimate provident fund dues of the petitioners could not be disbursed by the RPFO.

This matter has been heard on several occasions. Several opportunities have been given to the parties to verify the records and make their submissions. This Court was also of the view that the respondent Nos. 2 and 3 acting in league and concert with each other were delaying the payment of the legitimate dues of the petitioners. From the Report-on-Affidavit affirmed by the respondent No. 2 it appears that the total amount of provident fund dues for 86 employees amount to Rs.91,74,582.74/-.

Out of the said 86 employees the amount payable individually to 68 employees is available. Such data is available from the official website of EMPFO and produced with the Report. Only in respect of 15 employees individual data could not be traced out as the pension payment order was not available.

The data provided in the Report has been downloaded from the website of EMPFO. Therefore, the prayer for adjournment on behalf of RPFC, EMPFO for verification of the data was not granted by the Court. Be that as it may, the total amount payable to 86 employees aggregates Rs.19,74,582.74. 4 petitioners are amongst the 68 employees whose records are available. Also this Court finds no substance in the argument that year after year the employees can be made to suffer since records of some of the other employees were not in order.

There is no allegation by any of the parties that their records cannot be traced or there is any infirmity in calculation of provident fund dues in respect of the petitioners.

Since it is admitted that a sum of Rs.1,86,02,698.16/- is already lying in the hands of the respondent No. 3 and also any balance sum of provident fund dues is directed to be disbursed by the Bank Manager, SBI from the special deposit scheme by the respondent No. 2, this Court finds no impediment in release of the balance provident fund dues of petitioners which as per the submissions of the learned counsel appearing on behalf of the petitioners is a meager amount of approximately Rs.7,00,000/-.

Considering the harassment meted out to the retired employees of the NJMCL by the respondent No. 3, this Court is of the view that interest @ 10% from the date on which the balance provident fund amount fell due for payment till actual date of disbursal of the said dues will be paid by the respondent No. 3 to the petitioners over and above the rate of interest that the PF authorities are statutorily bound to pay to the petitioners.

Such payment shall be made within three months from the date of the order.

With the directions aforesaid, **WPA 11044 of 2022** is **disposed of.**

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

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

(Lapita Banerji, J)