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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 13105 of 2023

Nandalal Pal
Vs.
The State of West Bengal & Ors.

Mr. Sudarshan Ghosh
Mr. Snehasish Pal
Mr. Sudipta Mondal
... For the petitioner.

Mr. S. C. Prasad
... For the provident fund authorities

Ms. Amrita Pandey
Ms. Sneha Singh
... For the respondent nos. 5 & 6

1. The present writ petition has been filed, *inter alia*, praying for a direction upon the respondent no.5 to disburse the retiral benefits, *inter alia*, including provident fund accumulations of the petitioner.

2. By an order dated 28th August, 2023, this Court taking into consideration the submissions made by the parties had directed the respondent no.5 to file an undertaking before this Court that the amount of Rs.3,17,702/- which had been admitted in Court by the learned advocate representing the respondent no.5 be paid to the petitioner by Delta Limited on or before 29th September, 2023.

3. Ms. Singh, learned advocate representing the respondent nos. 5 and 6, on instruction, submits that

initially though, an exemption was granted to the Delta Limited (hereinafter referred to as the “said Company”), under Section 17(1) of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952, unfortunately, such exemption was cancelled by an order issued by the appropriate Government on 14th December, 2014. Since then, the said Company had challenged the said order of cancellation before this Hon’ble Court by filing a writ application which was registered as WPA2953 of 2015. Such application has, however, been dismissed by the Division Bench of this Court by an order dated 7th June, 2023. She, however, submits that in the light of the exemption granted by the appropriate Government, it is the trustee of Delta Jute Workers’ Provident Fund Trust (hereinafter referred to as the “Trustee”), which is responsible and obliged to make the aforesaid payment.

4. Heard the learned advocates appearing for the respective parties and considered the materials on record.

5. Although, the company having resisted implementation of the order of cancellation of exemption, is not only equally responsible with the trustees to implement the provisions of the said Act, but is also responsible to make payment of the provident fund dues of the petitioner. However, it is noticed that in an identical matter a similar issue having arisen, this Court was pleased to dispose of such application being

WPA 18746 of 2023 by an order dated 22nd September, 2023, *inter alia*, observing as follows:

“Although, the company having resisted the implementation of the order of cancellation is equally responsible with the trustees to implement the provisions of the said Act, insofar as transfer of accumulated provident fund contributions to the Provident Fund Authority, however, having regard to the stand taken by the company and the trustees as aforesaid and taking note of the order dated 17th December 2014 which has now reached finality, by reasons of dismissal of the writ application by order dated 7th June 2023, I am of the view that no fruitful purpose would be served by granting an extension to the company or the trustee to file the report, as I propose to dispose of the writ petition by the following order.

I direct the Trustees and the Company to forthwith comply with the provisions of Section 17(5) of the said Act and transfer the entire amount lying with the trustees to the Regional Provident Fund Commissioner, Howrah Regional Office, along with the returns and the investment statement. The trustees and the company are directed to extend full cooperation to the enforcement officers of the provident fund authority and assist the auditors appointed by the provident fund authority in carrying out the third party audit as proposed by the provident fund authority. The aforesaid process of transfer of the trust fund to provident fund authority should be completed within a period of four (4) weeks

from the date of communication of this order. The provident fund authority is directed to accept the same without prejudice to its claim. The Company, trustees and the provident fund authority should also ensure compliance of the aforesaid direction within the time specified herein.

Insofar as the petitioner's claim is concerned, since, the trustees and the company have already admitted the claim of the petitioner, I am of the view that the provident fund authority, which is otherwise obliged, should be directed to process the petitioner's claim and disburse the provident fund accumulations payable to the petitioner, as ex-employees of the said company, subject to verification by the Regional Provident Fund Commissioner, Howrah. In the process of verification of the petitioner's claim, if any document/application is required or needs to be executed by the petitioner, the same shall be communicated in writing to the petitioner, for him to comply with, and in such process the provident fund authority shall render full and complete assistance to the petitioner for complying with formalities, as and when required. The aforesaid process of disbursement of provident fund accumulations along with interest should be completed within a period of eight (8) weeks from the date of communication of this order.

*With the above directions and observations, the writ petition being WPA 18746 of 2023 is accordingly **disposed of.**"*

6. Since by the aforesaid order the trustee have

already been directed to transfer the entire trust fund unto and in favour of the Regional Provident Fund Commissioner, Howrah, and since, consequentially the provident fund authority had been directed to act in accordance with the direction passed in the said order and to process the claim of the petitioner therein, I am of the view that the petitioner stands on the same footing as that of the petitioner in WPA 18746 of 2023. The present writ petition, thus, can also be and is accordingly disposed of by directing the provident fund authority to process the petitioner's claim in the same mode and manner as in the case of petitioner in WPA 18746 of 2023.

6. With the aforesaid observations/directions the writ application stands disposed of.

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

(Raja Basu Chowdhury, J.)