

WPA 14102 of 2023

Goutam De
Vs.
The Union of India & Ors.

Ms. Pompey Bose
Mr. Anjan Banerjee

...for the petitioner

Mr. Kumar Jyoti Tiwari

...for the respondent Nos. 1-4

Mr. Sandipan Pal
Ms. Tithi Chakraborty

...for the respondent No. 5

The petitioner was working as a librarian with the National Institute of Foundry & Forge Technology (NIF&FT) at Jharkhand. He retired from service on May 31, 1992. The petitioner's mother died on July 25, 2005. The petitioner's father remarried in August 2006. On or about February 28, 2018 the petitioner's father intimated to the Respondent No. 2/employer that the petitioner would be eligible for '*family pension*' after his death as he was a completely disabled person. The said prayer of the petitioner's father was refused by the authorities concerned. On or about November 12, 2018, the petitioner's father made another representation for the petitioner to be considered as a nominee. The said prayer of the petitioner's father was also turned down by the authorities

concerned. It was held that he was not eligible to be nominated for '*family pension*' under Rule 54 of the Central Civil Services (Pension) Rule, 1972. The petitioner's father died on June 28, 2019. Since that time the stepmother of the petitioner is receiving the entire family pension. Therefore, the petitioner's wife made a representation on his behalf to the Director, NIF&FT for her husband to be paid a proportionate share of the '*family pension*'. It is the grievance of the petitioner that despite such representation being made on or about April 2, 2022 such representation has not been considered till date.

Ms. Bose, learned counsel appearing on behalf of the petitioner draws the attention of this Court to a *disability certificate* dated September 16, 2017 to corroborate her submission that the petitioner is 40% disabled. She submits that under Rule 50 (8)(e) of the CCS (Pension) Rules, the '*family pension*' of a deceased Government servant may be shared. She refers to Sub-rule 9(a) of Rule 50 to contend that in case a son or daughter of a deceased employee is suffering from mental or physical disability and not earning his or her livelihood, the said son or daughter would be eligible for receipt of a part of the '*family pension*'.

Mr. Tiwari, learned counsel appearing on behalf of the respondent-authorities challenges the maintainability of the writ petition, on the ground of lack of territorial jurisdiction. He submits that the petitioner's father worked in Jharkhand and no part of cause of action has arisen within the territorial jurisdiction of this Hon'ble Court. In order to counter the point of such lack of territorial jurisdiction of this Court, Ms. Bose relied on a judgement reported in (2020) 10 SCC 766 (**Shanti Devi alias Shanti Mishra vs. Union of India and Others**). She submits that even if a small fraction of cause of action accrues within the jurisdiction of the Court, the Court will have jurisdiction in the matter since it is convenient for a retired employee to prosecute his case at a place where he belonged and was getting pension. A retired employee, who is receiving pension, cannot be asked to go to another Court to file the writ petition.

Mr. Tiwari submits that since the petitioner is neither a retired employee nor receiving the pension within the territorial jurisdiction of this Court, the writ petition should be dismissed *in limine*.

Considering the rival submissions of the parties this Court is of the view that a part of cause of action has arisen within the territorial

jurisdiction of this Court. The petitioner's cause of action arises out of the fact that his father being a retired employee received pension within the jurisdiction of this Hon'ble Court. It is upon the death of the retired employee he being a disabled son is eligible for Family Pension.

Furthermore, it appears from the facts of the case that the refusal to accept the petitioner as a nominee of his father was received by the petitioner's father in the district of Howrah, West Bengal. Due to such refusal the petitioner has approached this Hon'ble Court. Therefore, to the mind of this Court, there is no doubt that the part of cause of action arose within the territorial jurisdiction of this Court. This Court has jurisdiction to receive, try and entertain the writ petition.

While dispensing justice the Court cannot be oblivious of the fact that immense hardship will be caused to the petitioner being a disabled dependent, if he is asked to prosecute the case in Jharkhand. Considering the submissions of the parties and the materials placed on record, this court is of the opinion that justice will be subserved by directing the Director, NIF&FT to consider the representation of the petitioner's wife made on his behalf on April 2, 2022 within a period

of 6(six) weeks from date upon giving an opportunity of hearing to the petitioner's wife or any person representing the petitioner. Such hearing will be held in the presence of all interested parties. A reasoned order shall be passed and communicated to the petitioner/his wife within 2(two) weeks of passing thereof. In passing the reasoned order the authorities concerned will take into consideration Rule 50(8) and 50(9) of the CCS (Pension) Rules.

With the directions aforesaid, **WPA 14102 of 2023 is disposed of.**

Since affidavits have not been invited in the present writ petition, the allegations made in the writ petition are deemed not to have been admitted by the parties.

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

Urgent certified website copies of this order, if applied for, be made available to the parties subject to compliance with all requisite formalities.

(Lapita Banerji, J)