

14
06.07.2023
mb

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No 15146 of 2023

Rakesh Khanra
Vs.
Regional Provident Fund Commissioner & Ors.

Mr. Oindri Chowdhury,
Mr. Narayan Chandra Das,
Mr. Ashok Kumar Chowdhury
...for the petitioner

Ms. Aparna Banerjee
...for the P.F. Authority

Mr. Bhaskar Mukherjee
...for the respondent no.3

Affidavit-of-service filed in Court today be kept on record.

Learned counsel appearing for the petitioner submits that the petitioner was a nominee of 20 per cent of the contributory provident fund of the deceased uncle of the petitioner, namely, Late Ganesh Khanra.

However, the petitioner came to know that the entire amount lying in such fund was disbursed by the respondent no. 3/employer in favour of the private respondent no. 7, Smt. Sandhya Khanra.

It is contended that the private respondent no. 7 is an employee of the respondent no. 3 itself and earns a handsome income from such employment. As such, it is prayed that the respondent no. 3 be directed to

disburse the amount of 20 per cent out of such provident fund to the petitioner.

Learned counsel appearing for the respondents, in particular respondent no. 3, takes an objection to the maintainability of the writ petition. It is submitted that the nominee of an account is at best the 'receiving hands' and does not have any beneficial interest or any legal or fundamental right, the violation of which can call for interference under Article 226 of the Constitution of India.

Learned counsel appearing for the respondent no. 3 cites the judgment in *Shipra Sengupta vs. Mridul Sengupta & Ors.*, reported at (2009) 10 SCC 680, where it was observed by the Supreme Court that nomination does not confer any beneficial interest on the nominee. Although the context of such judgment, factually, was somewhat different from the present case, the ratio laid down therein applies to the present case. That apart, it is well-settled that a nominee is the receiving hand and does not have any further right in the amount claimed.

Secondly, the respondent no. 3 has also taken an objection to the belated filing of the writ petition. Although in the year 2009, the father of the petitioner, on a query by the petitioner's father, had been intimated clearly that the petitioner was not entitled, as a nephew, to have any right in the provident fund of

the deceased, the petitioner waited till the year 2023 to prefer the instant writ petition.

Upon hearing the parties, it is clear that the inordinate delay occasioned by the writ petitioner cannot be condoned. To seek equity, the petitioner must also do equity, which has not been done in the present case due to the inordinate delay in filing the writ petition.

That apart, although a wrong was undoubtedly committed by the respondent no. 3 in not disbursing 20 percent of the amount-in-question to the present petitioner as a nominee of the deceased employee, all wrongs do not call for interference under Article 226 of the Constitution of India.

In the present case, it has been rightly contended by the respondent no. 3 that the petitioner does not have any interest in the corpus of the amount now claimed. The only interest of the petitioner was as a nominee. Such stage having been bypassed by the respondent no.3/employer, albeit irregularly, and the amount having been disbursed to the rightful legal heir of the deceased employee, the same does not furnish a right to the petitioner to prefer the instant writ petition.

Hence, in view of the above observations, there is no cause of action for interfering in the present writ petition.

Accordingly, W.P.A. No 15146 of 2023 is disposed of without any interference with the disputed action.

It is made clear that nothing in this order shall prevent any legal heir of the deceased employee, Ganesh Khanra, in claiming their dues in due process of law before a competent civil court.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)