

26.09.2023
DL-57
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 16438 of 2023

Joydeep Deb Chowdhury
Vs.
Union of India & Ors.

Mr. Subhojit Saha,
Mr. Shirshania Roy
....for the petitioner.

Ms. Aparna Banerjee
...for P. F. Authorities.

Mr. Debartha Chakraborty,
Ms. Joyshree Ghosh
....for the respondent no.5.

The petitioner's grievance is that the Regional Provident Fund Commissioner (RPFC), Bengaluru has not considered the petitioner's representation dated April 17, 2023 for release of pension under the Employees' Provident Fund Scheme and Pension Scheme, 1995. Furthermore, a demand for justice dated May 18, 2023 issued by his advocate has also not been considered by the RPFC, Bangalore.

Ms. Banerjee, learned counsel appearing on behalf of the Provident Fund Authorities challenges the maintainability of the writ petition by submitting that this Court has no territorial jurisdiction to entertain the same.

Mr. Chakraborty, learned counsel appearing on behalf of the respondent no.5/employer submits that

the employer has taken necessary steps by submitting the PF Form-10D, original scheme certificate and non-employment certificate and other required documents before the Assistant Provident Fund Commissioner, Bangalore, on August 11, 2023. Therefore, the employer is not at fault for the delay in grant of pension to the petitioner.

Mr. Saha, learned counsel appearing on behalf of the petitioner submits that this Court has the territorial jurisdiction to entertain the present writ petition relying on a judgment passed in Civil Appeal No.3630 of 2020 (**Shanti Devi vs. Union of India & Ors.**). He submits that since the petitioner is a retired employee he should not be directed to file proceedings at Bangalore.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that the decision of the **Shanti Devi** (supra) does not aid the writ petitioner.

In the aforesaid case, the Hon'ble Apex Court held that the Patna High Court had territorial jurisdiction to entertain the writ petition since the deceased employee was continuously receiving pension for the last 8 years in the savings bank account maintained with the State Bank of India, Darbhanga. The stoppage of pension affected the

deceased petitioner at his native place. The petitioner was, therefore, deprived of the benefit of pension which he was receiving from his employer at the native place. The stoppage of pension gave rise to the cause of action, which arose at a place where the petitioner was continuously receiving pension. Therefore, the Supreme Court **held** that the view of the learned Single Judge as well as the Division Bench in holding that the writ petition was not maintainable on the ground of lack of territorial jurisdiction was completely erroneous and caused immense hardship to the petitioner. It was categorically held that even if a small part of cause of action arose within the territorial jurisdiction of the High Court, the writ petition may be entertained, even if the same may not be a determinative factor compelling the High Court to decide the matter on merit.

In the present writ petition, the pension has not yet been received by the petitioner. All the correspondence was made with the RPFC, Bangalore. The petitioner also worked in Bangalore.

Therefore, the present writ petition cannot be equated with the case of a retired employee who was receiving pension within the territorial jurisdiction of this Court.

Accordingly, **WPA 16438 of 2023** is dismissed.

The petitioner will be at liberty to file proceedings before the appropriate forum, if so advised.

It is made clear that this Court has not gone into the merits of the writ petition.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

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

(Lapita Banerji, J.)