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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 19928 of 2023

Bijoy Kumar Prodhan
Vs.
The State of West Bengal & Ors.

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

Ms. Aparna Banerjee
... For the provident fund authorities

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

1. The present writ application 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. The petitioner claims to be an ex-employee of the respondent no.5.
3. Mr. Mondal, learned advocate representing the petitioner by drawing attention of this Court to the pay slip issued by the Delta Limited (hereinafter referred to as the "said company") which has been annexed to the writ petition submits that at all material point of time, the said company had deducted provident fund contributions from the petitioner. Although, by a notice in writing dated 1st July, 2021, the said company had notified the petitioner that the petitioner having crossed the age of

superannuation on 31st December, 2018 would retire from service on 1st August, 2021 and by such notice had also called upon the petitioner to submit xerox copy of the bank account number and the pass book for the purpose of settlement of provident fund dues, no such dues has been settled, although, the petitioner had in compliance of the aforesaid direction issued by the respondents, made over the particulars of the bank account and the pass book. He submits that the petitioner had made representation both before the Regional Provident Fund Commissioner as also before the respondent no.5. Despite the aforesaid no steps have been taken by the respondents to effect disbursal of the provident fund accumulations.

4. Ms. Banerjee, learned advocate representing the provident fund authorities submits that although the said company was enjoying exemption under Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the "said Act"), such exemption had been cancelled by the appropriate Government by invoking powers under Section 17(4) of the said Act, by its order dated 17th December, 2014. The challenge made to the said order by the said company has been put to rest by an order dated 7th June, 2023 passed by the Division Bench of this Court. This Hon'ble Court taking note of the subsequent developments as indicated

above, by an order dated 22nd September, 2023 passed in WPA 18746 of 2023 has been pleased to direct the trustees of the said company to forthwith comply with the provisions of Section 17(5) of the said Act, and transfer the entire amount to the trustee along with the returns and investment statement. She submits that this Hon'ble Court has further directed the provident fund authorities to verify the claim of the petitioner to such application and to effect disbursal of the provident fund and other claims. She submits that the present writ application can also be disposed of in terms of the direction given in WPA 18746 of 2023 by the order dated 22nd September, 2023.

5. Ms. Singh, learned advocate representing the respondent nos. 5 and 6 prays for an accommodation

6. Heard learned advocates appearing for the respective parties and considered the materials on record. Having regard to the submissions made by Ms. Banerjee and having regard to the order passed by this Court on 22nd September, 2023 in WPA 18746 of 2023, I find that this Court had been pleased to dispose of the said application by 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 disbursal 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.

Insofar as the claim for pension is concerned, it shall be for the provident fund authority to process the same with the aid and assistance of the trustee and the company, who shall be bound to render all assistance. Necessary pension payment orders shall be issued, if the respective petitioners are found eligible, alternatively, to communicate the reasons for rejection. Such process must also be completed within the time specified hereinabove”.

7. In view of the direction passed in WPA 18746 of 2023 I dispose of the present writ application by directing the provident fund authorities to process the petitioner's claim application, in the same mode and manner as provided in WPA 18746 of 2023, within the time specified in the order dated 22nd September, 2023.

8. With the above observations/directions, the writ petitioner is disposed of.

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

(Raja Basu Chowdhury, J.)