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04.01.2022
S.D.

W.P.A. 26745 of 2022

**Tapati De & Ors.
Vs.
Central Bank of India & Anr.**

Mr. R.N. Chakraborty
Mr. M. Ahmed

... For the Petitioners

Mr. Sudhir Kumar Senapati
Mr. Devajyoti Barman

...For the Respondent Nos. 1 & 2.

The petitioner no. 1 is the wife of a deceased employee of the Central Bank of India/respondent no. 1. The petitioner nos. 2 and 3 are the daughters of the petitioner no. 1 and the deceased employee. The deceased employee retired from services on and from December 31, 2007.

The petitioners' claim that the deceased employee was a pension optee pursuant to a bipartite settlement between the Workmen Unions and the Officers' Organization dated September 10, 2010. The petitioners' names also appeared on the provisional list issued by the bank on November 10, 2010 for the pension optees.

Mr. Chakraborty, learned counsel appearing on behalf of the petitioners submits that since a criminal case was pending against the deceased employee since 1995, the

petitioner did not get the benefit of pension under Clause 47 of Chapter-IX of the general conditions of the Pension Agreement whereby commutation benefits of pension were not given to an employee against whom judicial proceedings were pending.

The deceased employee was acquitted by the Special Judge, CBI Court, Alipore by an order dated January 31, 2017. Thereafter, the retired/deceased employee made representation for release of pension. The retired employee died on June 13, 2022. The petitioners being heirs/legal representatives of the deceased employee also made representations before the respondent no. 1, bank. The demand for justice was made on April 29, 2022 by the deceased employee.

Mr. Chakraborty, learned counsel appearing on behalf of the petitioners further submits that the representations of the petitioners have not been considered and there was no legally valid reason for not holding the deceased employee to be eligible for pension.

Mr. Senapati, learned counsel appearing on behalf of the respondent/bank submits that the petition is not maintainable. The cause of action of the deceased employee arose in 2010. The petitioners being heirs and legal

representatives of the deceased employee approached the Court at a much belated state. The deceased employee himself did not approach this Hon'ble Court even though the cause of action arose in 2010. As per Clause 2 of the bipartite agreement dated September 10, 2010, the deceased employee/the predecessor-in-interest of the petitioners was required to exercise the option for payment of pension within 60 days from November 8, 2010. After expiry of the said period of 60 days and within another 30 days, the deceased employee was required to refund the entire amount of the bank's contribution to provident fund along with interest thereon to be received upon retirement along with his share in the contribution of provident fund towards meeting the funding gap for being eligible to be paid pension. As per the records of the bank, the deceased employee was required to pay Rs.12,39,726.01 which admittedly the deceased employee did not pay.

Therefore, no claim is maintainable for being granted pension since the deceased employee did not comply with the conditions stipulated in the bipartite agreement dated September 10, 2010.

Having considered the rival submissions of the parties and the materials placed on record, this Court finds that the

predecessor-in-interest of the petitioners did not comply with the provisions of the bipartite agreement dated September 10, 2010. Without complying with the provisions of the bipartite agreement, the petitioners cannot today claim to be entitled to be eligible for pension. The petitioners cannot take advantage of the bipartite agreement dated September 10, 2010 since the conditions stipulated therein have not been complied by the deceased employee. The petitioners cannot rely on a part of the document and use it to their advantage. It is a well settled principle of law that a document is to be read as a whole and not in part.

In the light of the discussions above, **W.P.A. 26745 of 2022 is dismissed.**

Since no affidavits have been directed to be exchanged in the present writ petition, all the allegations contained therein are deemed not to have been admitted by the parties.

All parties shall act on the server copy of this order duly downloaded from the **website** of this Court.

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

(Lapita Banerji, J.)

