

OD-7

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE
WPO 2972 OF 2022

IN THE MATTER OF:
MOHAN BOURI
VS.
M/S. EASTERN COALFIELDS LTD. AND ORS.

BEFORE:

The Hon'ble JUSTICE LAPITA BANERJI

Date : 17th March, 2023.

Appearance:-

Mr. Partha Ghosh, Adv.

Ms. Simran Sureka, Adv.

Mr. Debashis Das, Adv.

Mr. Rahul Agarwala, Adv.

For petitioner

Mr. Syed Nurul Arefin, Adv.

Mr. Rahul Singh, Adv.

Miss Rashmi Binayak, Adv.

For respondent nos. 1 to 7

Mr. Kallol Guha Thakurata, Adv.

Md. Sharique Afzal, Adv.

Md. Wasim Rahaman, Adv.

For respondent no.8

Mr. Subrata Bhattacharyya, Adv.

Ms. Arunika Ghosh, Adv.

Ms. Shipra Santra, Adv.

For respondent no.9

The Court:- The petitioner is a retired employee of Eastern Coalfields Limited (in short "ECL"). The petitioner retired from service on June 30, 2022. The grievance of the petitioner is that despite rendering satisfactory and continuous service, the retiral benefits of the petitioner in terms of provident fund dues, pension, gratuity etc. have not yet been paid to the petitioner.

By an impugned order dated September 30, 2022, the Deputy General Manager (Mines)/Agent informed the petitioner that till such time TS 121 of 2022

pending before the Court of learned Civil Judge, Junior Division, First Court at Durgapur is adjudicated and disposed of no retiral dues of the petitioner can be processed.

Mr. Ghosh, learned counsel appearing on behalf of the petitioner submits that the impugned order should be set aside and/or quashed since there is no legal tenable ground for withholding the retiral dues of the petitioner.

Mr. Arefin, learned counsel appears on behalf of the ECL. He submits that since TS 121 of 2022 is pending, ECL has not yet processed the retiral dues of the petitioner. The service rendered by the petitioner, however, has not been disputed by ECL.

Mr. Guha Thakurata, learned counsel appears on behalf of the Coal Mines Provident Fund Organisation(CMPFO) authorities.

Considering the rival submissions of the parties and materials placed on record, this Court is of the view that:-

- (a) The petitioner was appointed on compassionate ground on August 1, 1990.
- (b) The petitioner rendered continuous service till June 30, 2022.
- (c) The said service was rendered to the satisfaction of the employer.
- (d) One civil suit TS 121 of 2022 (Bablu Bouri Vs Mohan Bouri) was filed sometime in 2022, just prior to the retirement of the petitioner.
- (e) The said suit was in the nature of private dispute between the petitioner and the private respondent no.9.

Considering the above facts, this Court is unable to see how the employer ECL can refuse to disburse the retiral benefits to the petitioner because of

pendency of a private dispute between the petitioner and the private respondent no.9. This Court also fails to understand the legal basis on which the Impugned order dated September 30, 2022 was issued. The petitioner has rendered continuous satisfactory service to employer, ECL. The retiral benefits of the petitioner are his entitlement and not a charity to be done or bounty to be given by the employer to the petitioner.

In the circumstances hereinabove, the impugned order dated September 30, 2022 is set aside and/or quashed as it suffers from total non-application of mind and arbitrariness.

The retiral benefits of the petitioner have to be granted immediately but not later than six weeks from the date of order. The petitioner will be entitled to interest from July 1, 2022 (the date succeeding the date of retirement) till the date of actual payment at the rate of 6% per annum, since without any legally sustainable reason, the employer ECL has chosen not to pay the retiral dues of the petitioner till the disposal of the civil suit.

With the aforesaid direction, **WPO 2972 of 2022** is disposed of.

All parties to act on a server copy downloaded from the official website.

(LAPITA BANERJI, J.)

Sb/