

17.09.2024.
Item Nos. 8.
Court No. 13
pk

MAT No. 407 of 2021
CAN 1 of 2021
CAN 2 of 2021

Sumit Ghoshal and others
Versus
Union of India and others

Mr. Phatik Chandra Das.
...For the appellants

Mr. Dayashankar Mishra,
Ms. Ashima Roy Chowdhury
... For the Union of India

Mr. Ashok Kumar Jena
... For the respondent nos. 2 and 3.

1. Sufficient grounds are available to explain the delay of 45 in filing the instant appeal.
2. Delay is condoned.
3. The instant appeal is directed against judgement and order dated 10.12.2019. The facts of the case are that the appellants are employees of the Central Inland Water Transport Corporation Ltd. (CIWTC). The assets, liabilities and litigations of the CIWTC have been taken over by the Syama Prasad Mukherjee Port Trust.
4. By the impugned judgement, the petitioners in the writ petition for seeking implementation of the 6th CPC notwithstanding the fact that they had all retired on voluntary and revised voluntary basis, much prior thereto. The petitioners have a very limited prayer before this Court. They seek a small clarification of Para 30 of the impugned judgement, which is set out herein below :

“30. In view of the aforesaid, I am unable to pass any mandatory order directing the respondents to implement the Sixth CPC recommendations in respect of the petitioners and pay them the arrear salary on the basis thereof. The writ petitioners are accordingly dismissed. The interim orders that were passed on the writ petitions stand vacated. It is however clarified that this judgement shall not stand in the way of the respondents implementing the Sixth CPC recommendations in respect of the petitioners and paying them the arrear salary on the basis thereof, if the respondents so decide as a matter of policy. There will be no order as to costs.”

5. The writ petitioners contended that since the Single Bench has dismissed the writ petition, the next part of the order may never at all be taken up for even consideration by the Syama Prasad Mukherjee Port Trust

6. This Court notes that the language used by the Single Bench is clear and explicit. After dismissing the writ petition on merits, the Single Bench has left what could otherwise described as mercy plea on the part of the writ petitioners/appellants before the Port Trust Authority. Mercy plea is to the extent that if for some reason the Port Trust may decide in their wisdom and in terms of their policy, the benefit of the 6th Pay Commission may be considered for being given to the petitioners/appellants, dismissal of the writ petition should not stand in the way.

7. This Court is of the view that the order of the Single Bench even otherwise does not require clarification. The language is clear and explicit.

8. In view of the above, the instant appeal is disposed of leaving an exclusive discretion to the Port Trust Authority that in future if for some inexplicable reasons, they wish to consider granting the benefit of the 6th Pay Commission to the writ petitioners, the impugned order of dismissal of the writ petition would not stand in the way of taking and enforcing any such policy decision in consultation with the Central Government that the management of the Port Trust may even consider taking.

9. With the aforesaid observations, the instant appeal and the connection applications are disposed of.

10. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)