

ML-13

05.08.2024
Court No.26
(Dd)
(Disposed of)

MAT 376 of 2013
IA NO: CAN/1/2013(Old No:CAN/6682/2013),
CAN/2/2013(Old No:CAN/6683/2013)

Calcutta Dock Labour Board & Ors.
Vs.
Smt. Lila Das

Mr. Ashok Kumar Jena
... for the appellants

1. Appeal is at the behest of the Calcutta Dock Labour Board.
2. By the impugned order, the writ petitioners were found entitled to enhanced pensionary benefits. Calcutta Dock Labour Board was directed to pay the enhanced pensionary benefits.
3. Learned Advocate appearing for the appellants submits that, the issue of payment of enhanced pensionary benefits received consideration of the High Court both at the Single Bench and Division Bench level in earlier round of litigations. Ultimately, the matter was considered by the Hon'ble Supreme Court. Hon'ble Supreme Court dismissed the Special Leave Petition. Thereafter, two orders were passed by two different Division Benches; one in an appeal and one in a contempt petition. He draws the attention of the Court to the orders dated April 7, 2017 passed by a

Division Bench in **CPAN 780 of 2015** in **FMA 1709 of 2013 (Harendra Nath Raj vs. Sri. M.T. Krishna Babu and Others)** as also to the order dated November 26, 2019 passed in **FMA 554 of 2012 (Deputy Chairman, Calcutta Dock Labour Board and Others vs. Pashupati Mondal and Others)**.

4. In **Pashupati Mondal and Others (supra)**, the Dock Labour Board was in appeal against orders passed by the learned Single Judge requiring the Dock Labour Board to pay increased pension to its eartwhile employees. The Division Bench noted the earlier order dated April 7, 2017 passed in **Harendra Nath Raj (supra)** and was pleased to find that, there was an issue of affordability. Calcutta Dock Labour Board was found not to be in possession of requisite funds so as to meet the obligation of enhanced pension payable. The Division Bench also noted unwillingness of the Central Government to infuse funds. In such circumstances, Division Bench made the following observations:

“In principle, the order impugned cannot be faulted; though the relief that the respondent-writ petitioner has obtained may not be enjoyed by the writ petitioner since the Board does not have the means to make the additional payment. In the circumstances, it is necessary to go into the merits of the present matters and leave the parties to work

out whatever other remedies that may be available to them. It goes without saying that if funds are infused into the Board, particularly for the purpose of paying pension to its erstwhile employees, all erstwhile employees should be treated at par and if any class of pensioners receive enhanced pension, others should also be extended the same benefit.

Nothing in this order will prevent the respondents from making an appeal or pursuing the matter with the Central Government in accordance with law.”

5. The parties before us are similarly situated and circumstanced as that of the parties in ***Pashupati Mondal and Others (supra)***. Consequently, same direction as obtaining in ***Pashupati Mondal and Others (supra)***, are passed herein.
6. **MAT 376 of 2013** along with all connected applications are disposed of accordingly without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)