04.12.2024
Ct. 23
D/L 3
ab

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 14182 of 2024

Sukumar Dalapati
-Vs-
Union of India & Ors.

Mr. Ramdulal Manna,
Mrs. Manju Manna (Dey),
Mr. Sabyasachi Mondal,
Mr. Sayan Mukherjee,
Ms. Puja Naskar
Ms. Payel Khanra
... for the petitioner

Mr. S. Bhattacharjee,
Mr. Loknath Chatterjee
... for the Union of India

Mr. Manik Das
... for the respondent nos. 4 and 7

Mr. Kallol Guha Thakurata,
Mr. Aamit Nandi
... for the CMPFO/respondent nos. 5, 6 &10

Mr. Shiv Shankar Banerjee,
Mr. N. Paul
... for the SECL/respondent no. 8

The learned advocate for the petitioner has taken instruction in respect of the letter placed before the Court by Coal Mines Provident Fund Organization ((in short, ‘CMPFO’) on the last occasion wherein it was stated that pension claim in respect of the petitioner has been settled on 22nd November, 2024 for Rs. 80,206/- per month including the arrear amount for Rs.

1,91,580/-. It was also stated in the said letter that an amount of Rs. 7,70,892/- has been recovered from the arrear, which shall be released after confirmation of deduction and deposition of 2% contribution for the period 03/90, 03/91, 03/93 to 03/99 and one increment amount for the period 03/96 to 03/99.

The petitioner says that he, during his service tenure, has worked in different subsidiaries under the Coal India Limited (in short, 'CIL'). It is alleged by CMPFO that while the petitioner was serving South Eastern Coalfields Limited (in short, 'SECL'), the respondent no. 8, there was a shortfall in the deposit of deductions.

On behalf of SECL, however, this fact is disputed as they say whatever amount was required to be deducted from the petitioner as per law has been done and deposited with CMPFO. It is also the case of the SECL that the same has been clarified as far back as on 5th December, 2014 pursuant to correspondences exchanged between SECL and CMPFO.

It is unfortunate to notice that a person, after serving the subsidiaries of CIL without any blemish, on his retirement is deprived of his retiral benefits when it has been clarified time and again by the Hon'ble Supreme Court that the retiral benefits of an employee is his right and not a bounty and the role of a public sector undertaking shall be that of a model employer.

Amidst the crossfire between CMPFO and SECL, where the petitioner had no role to play a substantial sum of money aggregating to Rs. 7,70,892/0 has been recovered and/or kept withheld by CMPFO. The law in this count has been settled by the Hon'ble Supreme Court in the judgment reported in ***(2022) 4 SCC 627 (Dr. A. Selvaraj Vs. C.B.M. College And Others***). The Hon'ble Supreme Court in paragraphs 12, 13 and 14 at pages 629 and 630 has observed the following, which are set out hereinbelow:-

> *"12. In that view of the matter, subject to the further final order that may be passed by the Government, the College/Management is first liable to pay the interest on the delayed payment of retirement dues subject to the final decision, which may be taken by the Government, after hearing the Management and the former Secretary. However, because of the inter se dispute between the Management, Secretary and the Government on who is responsible for the delay in making the payment and/or settling the dues, the retired employee should not be made to suffer for no fault of his.*
>
> *13. In view of the above discussion and for the reasons stated above, the present appeal succeeds. The impugned judgment and order passed by the Division Bench of the High Court and that of the learned Single Judge denying the interest on delayed payment of retirement benefits to the appellant is hereby quashed and set aside. The Management/Trustees/College are hereby directed to pay the interest on the delayed payment of retirement benefits to the appellant, from the date of retirement till the actual payment was made, subject to the final decision that may be taken by the Government on the objections to the enquiry report that may be filed by the former Secretary and/or the College and it will be open for the College/Management/Trustees to recover the*

> *same from the person, who, ultimately is held to be responsible for the delay.*
>
> *14. The payment of interest on delayed payment of retirement benefits to be paid strictly within a period of six weeks from today. In the meantime, the Government to pass a final order on the enquiry report after giving an opportunity to the College/Management/former Secretary. It goes without saying that it would be open to the aggrieved party to challenge the said decision before the appropriate forum."*

The petitioner has retired on 31.10.2023 and has not been paid either the pension or his retiral benefits. In view of such directions given by the hon'ble Supreme Court, the CMPFO is directed to release the recovery and/or the withheld amount of Rs. 7,70,892/- to the petitioner forthwith and shall be free to take up the matter with SECL for realization of any shortfall amount with interest and penalty that may be applicable. The monthly pension as fixed by CMPFO shall be paid to the petitioner for the month of December which shall fall due in the month of January, 2025. The arrears of the pension amount along with withheld amount with interest @ 6% per annum shall be paid to the petitioner by 31st March, 2025, failing which the interest rate will become 8.66% per annum.

Nothing further remains to be decided in this writ petition. The writ petition is accordingly disposed of.

All parties including SECL and CMPFO shall act on the basis of the server copy of this order duly downloaded from the official website of this Court without insisting upon production of a certified copy thereof.

(**Arindam Mukherjee, J**.)