

07.08.2024

DL-21

(Dd)

MAT/985/2024
With
IA NO: CAN/1/2024

CALCUTTA STATE TRANSPORT CORPORATION
AND ORS.

VS

SRI GOPAL DUTTA AND ORS.

Mr. Amal Kumar Sen,
Mr. Sabyasachi Mondal, Advocates
... .. For the Appellants

Mr. Manas Kr. Ghosh,
Ms. Susmita Dey (Basu), Advocates
... .. For the Respondent no.1/writ petitioner

1. Appeal is taken up for hearing subsequent to order dated August 2, 2024.
2. In course of hearing of the appeal, we noted that, writ petitioner applied for coming out of CSTC Employees' (Death-Cum-Retirement) Benefit Regulations, 1990 by a writing dated April 23, 2014. Such application was supported by an affidavit affirmed before a notary public.
3. In course of hearing also we noted that, the respondent no.1 filed a supplementary affidavit. We also noted that the writ petitioner filed a supplementary affidavit where he acknowledged that he wrote a letter dated July 23, 2014 and affirmed an affidavit on July 21, 2014 expressing his willingness to withdraw from the Regulation of 1990. He also stated in his supplementary affidavit that his application for withdrawal dated July 23, 2014 was rejected.

4. In such view, we called upon the appellants to produce the service book of the writ petitioner in Court on the next date.
5. Pursuant to such direction, learned advocate appearing for the appellants produces the service book of the writ petitioner in Court. He draws the attention of the Court to the relevant materials of such service book and submits that, the rejection of the application of the writ petitioner dated July 23, 2014 supported by the affidavit affirmed on July 21, 2014 was rejected by the Audit department of the appellant pursuant to similar order of rejection passed by the then Managing Director in respect of other employees.
6. In the facts of the present case, therefore, application for coming out of the purview of the Regulations of 1990 made on July 23, 2014 supported by an affidavit dated July 21, 2014 by the writ petitioner was rejected by the appellants. Such rejection was pasted at the material point of time in the service book of the writ petitioner. Parties thereafter acted on the basis of such rejection till the superannuation of the writ petitioner.
7. In such circumstances, it is too late in the day for the parties to revisit the issue as to whether the writ petitioner is governed by the Regulations of 1990 or not.
8. Appellants will, therefore, treat the writ petitioner to be falling within the Regulations of 1990 and will disburse all benefits under such Regulations of 1990 forthwith.
9. We find no merit in the present appeal.

10. MAT 985 of 2024 along with connected application are, therefore, **dismissed**.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)