22.8. 2024
item No.107
n.b.
ct. no.24

WPA 16216 of 2019

Sunil Kumar Das.
Vs.
State of West Bengal & Ors.

Ms. Susmita Dey(Basu),
…… for the petitioner.
Mr. Amal Kumar Sen,
Mr. Sabyasachi Mondal,
….. for the C. S. T.C.

The present petitioner was an employee of Calcutta State Transport Corporation, Government of West Bengal. He retired from service on February 28, 2018.

It is the case of the petitioner that he opted for pension under the CSTC Employees Death-cum-Retirement Benefit, Regulation 1990 but it appears that the corporation has not issued the pension in favour of the petitioner and by treating the present petitioner as CPF(Contributory Provident Fund) member.

Learned counsel Ms. Susmita Dey Basu on behalf of the petitioner submits that the case of the present petitioner covered by a judgment of Hon'ble Apex Court wherein the issue has been finally settled. She further submits that previously, a batch of writ petitions involving similar issue were allowed by a Single Judge of this Court; being aggrieved by the said order the Corporation has preferred an inter-court appeal before Division Bench wherein they have lost and they approached to the Hon'ble Apex Court. She further submits that the Hon'ble Apex Court in **Civil Appeal no.3462 of 2023 (arising out of SLP(C)11991 of 2021,CSTC Vs. Ashit Chakraborty & Ors)** has observed as follows:

"11. It is not in dispute that the respondent no.1 had exercised his right to receive pension under the 1990 Regulations in the year 1991. Thereafter, it was the duty of the Corporation to have given effect to the same. Merely because there were some wrong deductions from his salary and he was treated as member of the CPF Scheme, cannot be permitted to be raised as a ground to defeat his rightful claim. The pension was to start after retirement of the respondent. When the same was not released to him, immediately representation was made by him. As no response was received from the appellant, the writ petition was filed. The argument that there are number of similarly situated employees who will also stake their claims, will not deter this Court in granting the relief to the respondent, which is legitimately due to him. Rather this argument shows that the Corporation was at fault in implementing the 1990 Regulations in the cases of number of employees though these were notified on 4.1.1991 and were given retrospective effect from 1.4.1984. Technical objections are sought to be raised, which are not tenable. For any fault on the part of the Corporation, the employees cannot be made to suffer."

She further submits that the petitioner is covered by the judgment of the Hon'ble Apex Court as mentioned. Thus, the petitioner is entitled to get the pension.

Mr. Amal Kr. Sen, learned advocate on behalf of the CSTC submits that the respondent corporation treated the petitioner as a CPF number and duly disburse the entire retiral benefit in favour of the petitioner different heads as CPF member. The petitioner already received the amount without objections.

Mr. Amal Kr. Sen learned advocate further submits that the present petitioner on the verge of his retirement has submitted an affidavit contending, inter alia, that he wanted to withdraw the option. However, the authority refused to act upon the said affidavit.

However, Mr. Sen, on his usual fairness submits that the Hon'ble Apex Court has specifically refuted the stand of the CSTC, so the necessary order may be passed.

Heard the learned advocates perused the observation of the Hon'ble Supreme Court. It further appears that by the strength of observation ofthe Hon'ble Apex Court, several writ petitions were disposed of by a Co-ordinate Bench of this Court.

In my view, the present petitioner is entitled to get the similar relief as per direction of the Hon'ble Apex Court. The petitioner is directed to refund the employer's share on CPF and also the amount of gratuity already paid in excess of pensionable gratuity, if any, to the corporation with a simple interest @ 6% per annum within the period of three weeks from the date of the corporation raising a demand on the petitioner within four weeks from the date of communication of this order. Upon receipt of such payment by the petitioner, the respondent/corporation shall release the pension in favour of the petitioner within three months.

I make it clear, the corporation/respondent shall continue to start the regular pension of the petitioner from the month of December 2024. They also shall disburse the arrear pension within December 2024.. The arrear pension shall also carry an interest @ 6% per annum from the date of superannuation till its actual realization.

Under the above observation the instant writ petition is disposed of.

The petitioner is directed to intimate the respondent regarding the bank account, so that the pension may be credited to the bank.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)