

01
10.07.2024
Ct. No. 11
Jayanta

WP.CT 155 of 2023

Union of India & Ors.

vs

Sikha Rani Chal & Anr.

Mr. Bhudeb Chatterjee

Mrs. Sarda Sha

..... For the Petitioners

Mr. Ujjal Ray

Mr. T. K. Biswas

Mr. Ashok Chakraborty

..... For the Respondents.

The present writ petition has been preferred by the Union of India and its functionaries challenging a portion of the order dated 15th September, 2022 passed by the learned Tribunal in the original application (hereinafter referred to as OA), being OA 1032 of 2016.

The operative part of the said order dated 15th September, 2022 runs as follows:

‘Under the circumstances, the O.A. stands disposed of with a direction to the respondents to re-examined the case of the applicant without taking into considering the amount of pension and other terminal benefits to assess the financial condition of the applicant and not being influence by the decision dated 27.5.2016 and pass an appropriate order with due intimation to the applicant not later than 90 days from the date of receipt of a copy of this order.’

Mr. Chatterjee, learned advocate appearing for the petitioners submits that the claim of the respondent no. 2 would be re-examined in terms of the 1998 Scheme and the procedure prescribed thereunder. The said provisions would clearly reveal that the petitioners are entitled to take into consideration the amount of pension and other terminal benefits to assess the financial condition of the respondent no.2. In support of such contention, reliance has been placed upon Clause 16 of the 1998 Scheme as well as the procedure prescribed in para 3 of the circular dated 9th March, 2001.

He argues that the Scheme contemplates that the benefits received under the various welfare schemes including the family pension and other terminal benefits are to be taken into account and the authorities cannot be directed to deviate from the said provisions. Such argument, as advanced, was glossed over by the learned Tribunal and no finding was returned on the same. Such infirmity warrants interference of this Court.

Mr. Ray, learned advocate appearing for the respondent nos. 1 and 2, however, denies and disputes such contention of Mr. Chatterjee.

He argues that the order has been passed considering the provisions of the 1998 Scheme and applying the ratio of the judgments delivered in the cases of *Balbir Kaur & Anr. – vs. – Steel Authority of India Ltd. &*

Ors., reported in, (2000) 6 SCC 493 and *Canara Bank & Anr. – vs. – M. Mahesh Kumar*, reported in, (2015) 7 SCC 412. In view thereof, there is no infirmity in the direction towards re-examination of the claim towards compassionate appointment without taking into consideration the amount of pension and other terminal benefits to assess the financial condition of the respondents.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

A perusal of the provisions of the 1998 Scheme and its procedures reveal that the benefits received by the deceased's family under various welfare schemes including family pension and other terminal benefits can be taken into consideration by the authorities. Such consideration has been streamlined providing for grant of marks under various riders including family pension and terminal benefits.

In view thereof, the receipt of family pension and terminal benefits need to be considered in determining as to whether the family of the deceased employee is in indigent circumstances.

In the said conspectus, the direction that the claim of the respondent no. 2 needs to be re-examined '*..without taking into considering the amount of pension and other terminal benefits to assess the financial condition of the*

applicant..’ is not sustainable in law and the said direction is, accordingly, set aside.

The order impugned in the present writ petition is modified only to the above effect. The other directions contained in the order dated 15th September, 2022 shall remain unaltered.

With the above observations and directions, the present writ petition is disposed of.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty,J.)