

12.11.2024
Item No.67
RP
Ct. No.7

WPA 20453 of 2023
Alok Kumar Bhattacharya
Vs.
Union of India & Ors.

Mr. Om Narayan Rai
..... for Union Bank
Mr. Amitabha Nayak
Mr. Anindya Sundar Das
..... for Union of India

1. None appears for the petitioner.
2. Mr. Rai, learned advocate appears for the Indian Bank and files the report in the form of an affidavit.
3. The petitioner has prayed for issuance of a writ of mandamus to disburse pension along with other retirement benefits with effect from the date of retirement i.e. May 2003 along with interest at the rate of 18% per annum. It has been stated in the said writ petition that the petitioner has performed 10 years of continuous service without any break and he deserved to get his pensionary benefit in accordance with the relevant rules.
4. Mr. Rai, learned advocate appearing for the respondent bank submits that the writ petition is liable to be dismissed on the ground of suppression of material facts.

5. From the report in the form of affidavit it is evident that challenging an order passed by the disciplinary authorities dismissing the petitioner from service the writ petitioner approached this Court by filing a writ petition, being WP 7542 (W) of 2003. A coordinate Bench by an order dated 22nd August, 2014 dismissed the said writ petition. Challenging the order passed by the learned Single Judge the petitioner preferred an appeal, being FMA 824 of 2015, and the Hon'ble Division Bench by a judgment and order dated 7th August, 2017 dismissed the said appeal thereby affirming the order dated 22nd August, 2014. Thereafter, the petitioner filed a writ petition, being WPA 1395 of 2011, praying for release of the terminal benefits. Mr. Rai, learned advocate appearing for the respondent bank submits that pursuant to the direction passed in WPA 1395 of 2011 the respondent bank has paid the amount due to the petitioner on account of Provident Fund, Gratuity and other terminal benefits. Mr. Rai submits that alleging that the order passed in WPA 1395 of 2011 was not complied with, the petitioner filed an application, being CPAN 550 of 2021. It appears from the order dated 10th June, 2022 passed in CPAN 550 of 2021 that the learned Judge took note of the submission of the learned counsel representing the bank that the demand draft for the

amount due to the petitioner was made ready and the petitioner did not collect the same. The Hon'ble Single Judge by the said order dated 10th June, 2022 specifically recorded that the petitioner has attempted to mislead the Court. It was also recorded that drafts were not collected by the petitioner. The Hon'ble Single Judge further put the petitioner on notice that a suo motu contempt proceedings against him will be initiated for having attempted to mislead the Court. The said contempt application again came up for hearing on 20th June, 2022 when the petitioner tendered unconditional apology. The Hon'ble Judge recorded such fact by observing that the petitioner may collect the demand draft towards his terminal dues from Hatibagan Branch of Indian Bank after complying with all formalities. In paragraph 9 of the said report in the form of affidavit, it has been specifically stated that the petitioner visited the Hatibagan Branch of the respondent bank and collected the terminal dues on 24th June, 2022. Record reveals that after receiving the said amount without any protest the petitioner filed this writ petition on August 21, 2023. After going through this writ petition, this Court finds that the petitioner has suppressed the earlier proceedings filed by him.

6. When the petitioner has accepted the terminal benefits without any protest, the petitioner could not have instituted the instant writ petition praying for payment of pensionary benefits. This is a fit case for dismissal of the writ petition with exemplary costs. However, since the writ petition is not represented and has retired from service, this Court refrains from imposing cost upon the petitioner.
7. For the reasons as aforesaid, the writ petition stands dismissed without, however, any order as to costs.
8. Urgent Photostat certified copy of this order, if applied for, be delivered to the learned advocates for the parties, upon compliance of all formalities.

(HIRANMAY BHATTACHARYYA, J.)