09.12.2024
Ct. 23
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**IN THE HIGH COURT AT CALCUTTA**
**CONSTITUTIONAL WRIT JURISDICTION**
**APPELLATE SIDE**

**WPA 23390 of 2024**

**Jyotirmoy Chanda**
**-Vs-**
**Union of India & Ors.**

Mr. Dipen Bose,
Mr. Soumitra Chatterjee,
Mr. Goutam Kr. Basu
... for the petitioner

Mr. S. N. Dutta
... for the respondent no. 1

Mr. Shyamal Chakraborty,
Mr. D. Mondal
... for the respondent nos. 2 to 7.

Affidavit of service filed in Court today is taken on record.

The petitioner retired from the services of Export Inspection Council (in short, EIC), a statutory organization under the Government of India constituted by Export (Quality Control and Inspection) Act, 1963 on 30th November, 2001. The petitioner says that he had opted for being governed by the General Provident Fund Scheme (in short, 'GPF') and never wanted to stay under the Contributory Provident Fund Scheme (in short, 'CPF'). It is the case of the petitioner that the employer had treated the petitioner as an employee governed by the CPF Scheme and had made certain deductions from his salary from time to time. On superannuation, the petitioner was paid the retiral benefits treating him an employee governed by the CPF Scheme. The petitioner accepted the same without any protest and appropriated the money. The petitioner by filing the instant writ petition on 12th September, 2024 says that he should be treated as an employee governed under the GPF Scheme and should be given pension.

The law in this regard has been settled by the judgment reported in 2023 SCC Online 594 (Calcutta State Transport Corporation & Ors. vs. Ashit Chakraborty & Ors.). In that case, the employee opted for pension scheme on 21st July, 2017 and subsequently availed the voluntary retirement scheme thereby retiring from the services on 31st July, 2017. The employee in that case immediately after receiving retiral benefits had asked for giving him the pension by contending that he had opted for being governed by the pension scheme. The employee in Ashit Chakraborty (supra) pursued the matter and filed a writ petition which ultimately travelled to the Hon'ble Supreme Court leading to the aforesaid decision on 8th May, 2023. The time period between employee's retirement in Ashit Chakraborty (supra) and the date of the judgment of the Supreme Court is less than 5 years. The law in respect of entertaining belated service related claim has been well-settled by the Hon'ble Supreme Court in **Union of India & Ors. vs. Tarsem Singh** reported in **(2008)8 SCC 648**, **Asger Ibrahim Amin vs. Life Insurance Corporation of India** reported in **(2016)13 SCC 797** and in **Rushibhai Jagdishbhai Pathak vs. Bhavnagar Municipal Corporation** reported in **2022 SCC Online 641**.

The only exception curved out in case of entertaining service related claim at a belated stage is continuous wrong which has been clearly explained in the judgments referred to hereinabove. It is well-settled provision of law as laid down by the Hon'ble Supreme Court that by making representations, the limitation period does not get extended.

In the instant case, the petitioner approached this Court after about 23 years from the date of his retirement. The writ petition, therefore, in view settled position of law cannot be entertained due to inordinate delay and laches even though the ratio as laid down in Ashit Chakraborty (supra) may support the petitioner's case.

The writ petition is accordingly dismissed.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(**Arindam Mukherjee, J**.)