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16.05.2024  
Court No. 35  
D.Hira

**WPA 23265 of 2023**

**Md. Hasimuddin  
Vs.  
West Bengal State Minor Irrigation Corporation  
Limited & Ors.**

**Mr. Sarajit Sen,  
Mr. Tapas Singha Roy.  
... for the petitioner**

**Mr. Rajib Ray,  
Ms. Oishanee Ghosh.  
... for the respondent  
nos. 3 to 5**

**Mr. Suddhadev Adak.  
... for the respondent  
nos. 1 and 2**

**1.** The writ petitioner is aggrieved with the order dated July 31, 2023 issued by the Managing Director that the request of the writ petitioner, for uploading the option form for the benefit of higher pension, earlier submitted by him on March 1, 2023 and subsequently modified by correcting the errors therein, could not have been carried out. The reason shown, was lapse of time limit, prescribed to upload the Joint Request option form. And that the facility, earlier provided by the EPFO (Employees Provident Fund Organization) having already been withdrawn.

**2.** Mr. Sarajit Sen, learned counsel is appearing for the writ petitioner. He has anxiously and with utmost diligence submitted about the plight of the writ petitioner that in spite of submitting the option form within due time, the authorities are not following due procedure regarding uploading of his option form. He has submitted

the fact that the time has already been extended till 31<sup>st</sup> May, 2024 for the respondent no. 1 to upload the Joint Option Form, so submitted by the writ petitioner. That, in spite of the same, gross inaction on the part of the respondent authority in taking due action by uploading the option form of the petitioner is jeopardizing petitioners invaluable rights to get pension upon superannuation.

**3.** He seeks that necessary directions be issued by this Court upon the concerned respondent, to upload the Joint Option Form, which was submitted by the writ petitioner initially on March 1, 2023 and subsequently corrected, within the said stipulated extended period of time.

**4.** Mr. Rajib Ray, learned counsel is appearing for the respondent nos. 3 to 5. He says that extension of time for submission of the Joint Option Form has been granted for the employers only, that is, for the respondent no. 1, till May 31, 2024 and not to the employees.

**5.** Mr. Suddhadev Adak, learned counsel is appearing for the respondent nos. 1 and 2 that is the employer of the writ petitioner. On the basis of the averments made in the affidavit-in-opposition as submitted by the said respondents, he submits that the cause of action in the writ petition is no more subsisting, in so far as the Joint Option Form of the petitioner has already been uploaded by the employer in due course of time. Also, a letter annexed with the affidavit-in-opposition, that is, dated September 13, 2023, has been specifically relied on by him, to indicate the fact that the Provident Fund

Organization had declined eligibility of any of the existing members/pensioners of the respondent nos. 1 and 2 to get benefit of pension on higher wages, due to the alleged non-compliance and breaches committed by the said employer in following up the statutory provisions of submission of contribution etc.

**6.** Thus, he says that so far as the cause of action of the present writ petition is concerned, the same may not be considered to be existing any further.

**7.** It appears that the writ petitioner has submitted his option form on March 1, 2023. Due to some defect as regards the same, the same could not have been immediately uploaded by the respondent nos. 1 and 2 to the end of the respondent Provident Fund Organization. It has been uploaded only after removal of the defects in the said form, by the petitioner. Also that, at present, this may not bear any consequence, in so far as, according to the respondent Organization, none of the pensioners, who were the employees of respondent no. 1 and 2, would be eligible for higher pension, in terms of its letter dated September 13, 2023.

**8.** Regarding the fact of uploading of the option form, the parties are stating differently in this case. According to the petitioner, his form as corrected subsequently, has never been uploaded by the employer to the end of the Organization. Employer's version is somewhat different, that the same has been duly uploaded. The Court does not find any requirement to go into the investigation as to the correctness of such inconsistent statements in so far as that will be a futile exercise. Since the respondent

Organization has already taken a decision regarding ineligibility of the employees of respondent no. 1, including the present petitioner, to the enhanced pension, the question of any prejudice to occur to the petitioner due to the alleged non-submission of the option form, loses relevance.

**9.** This Court is of the view that the cause of action as espoused by the writ petitioner in this case, does not subsist any further.

**10.** As a matter of fact, it is noticeable that vide letter dated September 13, 2023 the Provident Fund Organization has informed about having dealt with the higher wages pension provision of the existing members/pensioners of the respondent nos. 1 and 2 and found them to be ineligible for the same.

**11.** In view of that, this Court is of the opinion that the stage of filing of the Option Form is now over.

**12.** The writ petition being WPA 23265 of 2023 is dismissed, being infructuous. However, it may be clarified that, in case on any future occasion, the option form (corrected) submitted by the petitioner, is found not to have been uploaded by the respondent nos. 1 and 2, the writ petitioner, shall be entitled to get the same uploaded for his pension etc.

**13.** Urgent Photostat certified copy of this order duly downloaded from the official website of this Court upon compliance all legal formalities.

**(Rai Chattopadhyay, J.)**