09
25.03.2025
Ct. No. 11
Jayanta

FMA 984 of 2024
in
IA No: CAN 1 of 2024

Palas Guha
vs.
Unioon of India & Ors.

Mr. Sakabda Roy
....For the Appellant.

Mr. Manas Kundu
Ms. Saheli Mukherjee
....For the Respondent
Nos. 2 to 6.

By reason of a typographical error in the cause title and in the second line of the order dated 28th February, 2025, it was erroneously recorded that Mr. Kundu, learned advocate appearing for the '*respondent no. 2 to 9',* in place and stead of '*respondent no. 2 to 6'*.

Office is directed to effect necessary correction.

The present appeal has been preferred challenging an order dated 20th June, 2024 passed by the learned Single Judge in the writ petition being WPA 7655 of 2012.

By the said order the writ petition was dismissed refusing to issue any direction towards disbursement of any outstanding claim *under the heads of (a) Notice Pay, (b) Retrenchment Compensation, (c) Salary up to 24.06.1999 (date or order of termination of service),. (d) Leave Salary (Earned Leave/Half Pay Leave), (e)*

Annual Performance Incentive, (f) Provident Fund and (g) Pay Revision along with interests thereon, as applicable under The Interest Act, 1978, for the period between 24.06.1999, being the date when the same had become due and the date of actual payment thereof.

Records reveal that when the appeal was taken up for consideration before a Coordinate Bench of this Court on 10th January, 2025 a report was called for from the respondent no. 4 as to whether the payment was entitled to Family Pension Scheme benefit and as to whether any amount towards Leave Encashment or any other dues are payable to him.

Pursuant to such direction a report in the form of affidavit has been filed and the appellant has also used an exception to the said appeal.

Mr. Roy, learned advocate appearing for the appellant in his fairness at the exception has submitted that the appellant is claiming for disbursement of the admitted dues for the period of contractual service rendered by him on and from 26th November, 1990 to till 19th October, 1995.

He submits that the respondents have illegally withheld the admissible benefits of service to which the appellant is entitled. No exception is forthcoming as to whether even after deduction of contributions towards family pension scheme the appellant has not been paid the benefits of the said scheme.

He further submits that fairness and reasonableness are the paramount issues for administrative action and the respondent company being a Government Enterprise must conduct dues with high probate and tender and ensure that its employees do not succumb to any discriminatory practice.

Mr. Kundu, learned advocate appearing for the respondent company, however, denies and disputes the contention of the appellant and drawing our attention to the report in the form of an Affidavit as filed by the respondent no. 4. He submits that employment at MECON is non-pensionable employment. However, the appellant was a member of a Voluntary Family Pension scheme which was applicable prior to implementation of EPS 1995 scheme and upon implementation of the said scheme, the Voluntary Family Pension scheme merged. The contributions made towards EPS 1995 stood remittance to Employee Provident Fund organisation and inconsonance with the deduction made the appellant was paid the Provident Fund dues along with interest. The said amount of Rs. 28,947.16/- was also accepted by the appellant before the writ petition was finally heard.

He further submits that in a previous round of litigation and on the basis of the direction of this Court MECON had disbursed the dues of pay for the period during which the appellant was placed under suspension and though the final order in the said writ petition was set aside in the appeal. The amount paid pursuant to the order of the learned Single Judge was also not recovered from the appellant.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

In reply, to the exception filed by the respondent company the writ petitioner appellant had used a reply. Drawing our attention to the annexures to the said reply Mr. Roy strenuously argues that further amount is due and payable to the applicant on account of Leave Salary, unpaid Bonus, Gratuity, Leave Travel Concession etc. however, such calculation or any claim to that effect do not feature in the averments made in the writ petition. No argument in support of such contention as regards non-disbursement of dues pertaining to leave, Leave Travel Allowance or unpaid Bonus was also advanced before the learned Single Judge.

Upon hearing the parties, the learned Single Judge returned findings on the arguments as regards non-disbursement notice pay, Retrenchment Compensation and other dues as prayed for. Thus, it cannot be argued urged before the learned Single Judge were glossed over and no finding was returned.

The learned Single Judge upon dealing with the factual findings and we do not find any infirmity in the same warranting interference in the appeal.

Accordingly, the appeal and the connected application are dismissed.

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

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

(Reetobroto Kumar Mitra,J.)(Tapabrata Chakraborty,J.)