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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 27573 of 2024

Kanu Debnath
-Vs-
The State of West Bengal & Ors.

Mr. Manas Kr. Ghosh,
Ms. Susmita Dey (Basu)
.... for the petitioner

Mr. Anand Farmania,
Ms. Subharsi Chatterjee
... for the State

Mr. Amal Kr. Sen,
Ms. Sahina Sumi
... for the CSTC

The affidavit of service filed in Court today is taken on record.

The petitioner is working as a 'Driver' in the Calcutta State Transport Corporation (in short, 'CSTC'). The petitioner says that pursuant to the promulgation of the Calcutta State Transport Corporation Employees' Service (Death-cum-Retirement Benefits) Regulations, 1990 (hereinafter referred to as 'DCRB 1990'), he has opted for being treated as an employee under the General Provident Fund (in short, 'GPF') Scheme instead of being treated as an employee under the Contributory Provident Fund (in short, "CPF') Scheme. The petitioner says that he is to retire on 31st January,

2026. Unless the petitioner is treated to be an employee under the GPF Scheme, the petitioner will be deprived of the pensionary benefits.

On behalf of CSTC, it is submitted that the petitioner is still being treated to be an employee governed by the CPF Scheme particularly in view of the fact that the petitioner has availed a loan while being under the CPF Scheme. It is, therefor, difficult to treat the petitioner as an employee governed under the GPF Scheme even if he had opted for the same unless the loan is recovered and/or repaid. It is further submitted by CSTC that whether the petitioner has opted for being treated as an employee under the GPF Scheme is also required to be ascertained.

Responding to the submissions made by CSTC, it is submitted by the petitioner that the loan of Rs. 2,30,00/- is a non-refundable loan, which is required to be adjusted from the provident fund contribution made by the petitioner. So far as the option is concerned, the petitioner specifically says that an option has been given on 5th July, 1991 and refers to 'Annexpure P-1' at page 18 of the writ petition being an Option Form.

Be that as it may, since the petitioner is only a year away from his retirement on reaching the age of superannuation, it is necessary to have a clear picture as to whether he is covered by the GPF Scheme or has to continue as an employee governed under the CPF

Scheme. This is more so necessary, as prior to six months from the petitioner's date of retirement, the documents and papers pertaining to the petitioner's retirement benefits and pension has to be scrutinized and finalized.

In the aforesaid facts and circumstances, the Managing Director, CSTC being the respondent no. 5 shall look into the option given by the petitioner, which appears at page 18 of the writ petition and pass a reasoned order stating as to whether the petitioner shall be governed under the GPF Scheme or the CPF Scheme. In the event, the petitioner is found to be governed by the GPF Scheme, the respondent no. 5 shall direct the department to calculate the amount, if any, which has been deducted in excess from the petitioner while the petitioner has been treated to be under CPF Scheme and not under the GPF Scheme and give necessary adjustments. In the event, any loan amount is outstanding then the excess amount, if any, shall be adjusted against the outstanding loan amount. In case the petitioner has to refund any money for being treated under the GPF Scheme, the petitioner shall be informed about the same and a time schedule to be provided for refund of such money. The entire exercise has to be completed within three months from the date of communication of this order. If the petitioner is found to be covered under the GPF Scheme then the petitioner shall be treated to be an employee governed under the GPF Scheme then he should be treated so from the retrospective date as per option. The detailed calculation of the amount, which is required to be recovered or adjusted or which is to be refunded by the petitioner, shall be provided to the petitioner by 31st March, 2025 so that necessary steps in terms of this order can be taken immediately on furnishing the same.

This order is being passed keeping in mind the ratio laid down in ***Calcutta State Transport Corporation and Ors. Versus Ashit Chakraborty & Ors***. reported in ***2023 SCC Online SC 594***.

Nothing further remains to be adjudicated in this writ petition. The same is accordingly disposed of.

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.

All parties including CSTC shall act on the basis of the server copy of this order duly downloaded from the official website of this Court without insisting upon production of a certified copy thereof.

(**Arindam Mukherjee, J**.)