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26.9.2025  
Ct. No. 1  
SB

RVW 257 of 2025  
CAN 1 of 2025 (appropriate order)  
with  
MAT 2362 of 2023

Debasish Mukherjee  
Vs.  
NTPC Ltd. & Ors.

Mr. Debasish Mukherjee (appearing- in- person)  
...for the appellant  
Mr. Soumya Majumder, Sr. Adv.  
Mr. Uttam Kumar Mondal  
Mrs. Maitree Roy ... for NTPC Ltd.

1. The appellant is appearing in person.
2. It is submitted that he is unable to approach the Hon'ble Supreme Court against the order passed on 18.7.2025 as his submission was not recorded in the said order. In the Memorandum of Review in paragraph 2 he has referred to the submission he made before the co-ordinate Bench but not recorded. This Bench was reconstituted after the retirement of Hon'ble Mr. T.S. Sivagnanam, the former Chief Justice of the Calcutta High Court.
3. Although it is argued that his submission was not recorded and may be recorded to enable him to approach the Hon'ble Supreme Court, it appears from the order dated 18.7.2025 that the previous Hon'ble Division Bench has considered all aspects of the matter. However, for the satisfaction of the petitioner who is appearing in person, we reproduce paragraphs 2 and 3 of the grounds stated in the Memorandum of Review:

“2.Following points recorded in the judgement dated 18<sup>th</sup> July, 2025 were neither submitted nor queried during hearing on 18<sup>th</sup> July, 2025 but were taken from the respondent's affidavit dated 19th March 2024. Corresponding points from petitioner's affidavit 30th August 2024 and various orders on record may kindly be recorded.

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| Recorded Submissions                                                                                                                                                                                      | Submissions may kindly be Recorded                                                                                                                                                    |
| The first objection raised by the appellant's employer is that the appellant was last posted in Orissa and the challenge to the order of premature retirement will not be maintainable before this Court. | The employer gave no objection to fresh writ petitioner's filing application (WPA 22944 of 2022) in place of WPA 7832 of 2020 (Order dated 23.09.2022) for self-same cause of action. |
| Decision of the premature retirement was communicated to the writ petitioner at Orissa.                                                                                                                   | Decision of Premature retirement was communicated in Kolkata, West Bengal.                                                                                                            |
| Recorded Submissions                                                                                                                                                                                      | Submissions may kindly be Recorded                                                                                                                                                    |
| The ground of alleged unauthorized absence during the period when the appellant was in deputation with DVC, Kolkata need to be canvassed before some other appropriate Court.                             | Unauthorized absence has already been canvassed and pending before Hon'ble Calcutta High Court vide WPA 2018 of 2020 and its contempt application CPAN 379 of 2021.                   |

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|------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
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| N.T.P.C. Ltd. was always ready and willing to release the amount but appellant has refused the same. | Payment or enhanced EPFO pension were never released. The cheque may kindly be handed over in the court. |

3. Following not recorded submission may kindly be recorded.

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| Hon'ble Single Bench                                                                                                                                                                                                                                                                                                                                                                                           | Hon'ble Division Bench                                           |
| Cause of action is order of premature retirement and performance is merit                                                                                                                                                                                                                                                                                                                                      | Cause of action is Performance and Unauthorized Absence is merit |
| Hon'ble Division Bench is pleased to overrule both Cause of action and merit determined by Hon'ble Single Bench. According to the established definitions and guiding tests for determining cause of action without going into merits as set in the referred paragraphs of the Hon'ble Supreme Court Judgements in Law notes to Ld. Amicus Curiae, Annexure "X-1" Unauthorized Absence is the cause of action. |                                                                  |

4. Each of the grounds has been duly considered by the Hon'ble Division Bench in disposing of the appeal
5. Moreover, Mr. Majumder, learned senior counsel appearing on behalf of the NTPC has submitted that the NTPC is still willing to release the amount as recorded in paragraph 15 of the order dated 18.7.2025. However, the appellant has refused to sign the necessary documents shall be without prejudice.

6. The appellant submits that he was asked to sign the necessary papers which would likely to cause prejudice to the applicant in the SLP, he propose to file.
7. We make it clear that the documents required to be signed for the purpose of release of his admissible retiral dues shall be without prejudice to the rights and contentions of the appellant.
8. We, however, do not find any error apparent on the face of the record dated 18.7.2025 for which we can exercise our jurisdiction under review. However, having regard to the fact that appellant is appearing in person, we gave him the opportunity to make his submission and recorded ground numbers 2 & 3 for his satisfaction.
9. The appeal and the application are disposed of.

[Soumen Sen, C.J. (Acting)]

(Chaitali Chatterjee (Das), J)