

17.02.2025
Court No.13
Item No. 12
sp

MAT 2085 of 2014
With
I.A. No. CAN 1 of 2014

Calcutta Dock Labour Board & Ors.
Vs.
Japendra Nath Dutta & Anr.

Mr. Ashok Kr. Jena

... For the appellants.

1. The order dated 7th February, 2025 shall stand recalled.

2. The subject matter of the present appeal has also been the subject matter of MAT 1404 of 2012 that was disposed of along with MAT 272 of 2013, MAT 273 of 2013, MAT 375 of 2013, MAT 415 of 2013, MAT 435 of 2013 and MAT 438 of 2013 dated 16th July, 2024 passed by a Co-ordinate Bench of this Court. The Bench recorded as follows:-

“1. Seven appeals are taken up for consideration analogously as similar issues are involved.

2. Appeals are at the behest of the Calcutta Dock Labour Board.

3. By the impugned orders, the writ petitioners were found entitled to enhanced pensionary benefits. Calcutta Dock Labour Board was directed to pay the enhanced pensionary benefits.

4. Learned Advocate appearing for the appellants submits that, the issue of payment of enhanced pensionary benefits received consideration of the High Court both at the Single Bench and Division Bench level in earlier round of litigations. Ultimately, the matter was considered by the Hon'ble Supreme Court. Hon'ble Supreme Court dismissed the Special Leave Petition. Thereafter, two orders were passed by two different Division Benches; one in an appeal and one in a contempt petition. He draws the attention of the Court to the orders dated April 7, 2017 passed by a Division Bench in **CPAN 780 of 2015 in FMA 1709 of 2013 (Harendra Nath Raj vs. Sri. M.T. 3 Krishna Babu and Others)** as also to the order dated November 26, 2019 passed in **FMA 554 of 2012 (Deputy Chairman, Calcutta Dock Labour Board and Others vs. Pashupati Mondal and Others)**.

5. In **Pashupati Mondal and Others (supra)**, the Dock Labour Board was in appeal against orders passed by the learned Single Judge requiring the Dock Labour Board to pay increased pension to its erstwhile employees. The Division Bench noted the earlier order dated April 7, 2017 passed in **Harendra Nath Raj (supra)** and was pleased to find that, there was an issue of affordability. Calcutta Dock Labour Board was found not to be in possession of requisite funds so as to meet the obligation of enhanced pension payable. The Division Bench also noted unwillingness of the Central Government to infuse funds. In such circumstances, Division Bench made the following observations:

“In principle, the order impugned cannot be faulted; though the relief that the respondent-writ petitioner has obtained may not be enjoyed by the writ petitioner since the Board does not have the means to make the additional payment. In the circumstances, it is necessary to go into the merits of the present matters and leave the parties to work out whatever other remedies that may be available to them. It goes without saying that if funds are infused into the Board, particularly for the purpose of paying pension to its erstwhile employees, all erstwhile employees should be treated at par and if any class of

pensioners receive enhanced pension, others should also be extended the same benefit.

Nothing in this order will prevent the respondents from making an appeal or pursuing the matter with the Central Government in accordance with law.”

6. The parties before us are similarly situated and circumstanced as that of the parties in ***Pashupati Mondal and Others (supra)***. Consequently, same direction as obtaining in ***Pashupati Mondal and Others (supra)***, are passed herein.

7. MAT 1404 of 2012, MAT 272 of 2013, MAT 273 of 2013, MAT 375 of 2013, MAT 415 of 2013, MAT 435 of 2013 and MAT 438 of 2013 along with all connected applications are disposed of accordingly without any order as to costs.”

3. This Court feels that the order dated 16th July, 2024 is appropriate and fair. This Court is in complete agreement with the said order.

4. In those circumstances, the aforesaid order shall also cover the instant appeal being MAT 2085 of 2014.

5. Hence, MAT 2085 of 2014 along with CAN 1 of 2014 shall stand disposed of.

6. There shall be no order as to costs.

7. A copy of the order dated 16th July, 2024 be kept with the record.

8. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)