OD-2 ORDER SHEET

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

ORIGINAL SIDE

WPO/609/2024

SHAILANI DOME

-VS-

M/S. EASTERN COAL FIELDS LTD AND ORS.

BEFORE:
The Hon'ble JUSTICE ARINDAM MUKHERJEE
Date : 21st March, 2025.

Appearance:
Mr. Partha Ghosh, Adv.
Mr. Amal Kumar Datta, Adv.
Ms. Simran Sureka, Adv.
Mr. Debashis Das, Adv.
Mr. Bratin Guin, Adv.
... for the petitioner.

Mr. Susanta Pal, Adv.
Ms. Madhumanti Chakraborty, Adv.
Mr. N. Banerjee, Adv.
... for respondent nos. 1-7.

Mr. Kallol Guha Thakurata, Adv.
Md. Wasim Rahaman, Adv.
Mr. Rajesh Nath Goswami, Adv.
... for respondent no.8.

The Court: The matter is being heard on regular basis since 13th August, 2024. Several orders have been passed directing the employer Eastern Coalfields Limited (in short 'ECL') and the Coal Mines Provident Fund Authorities to pay the gratuity amount, the life coverage amount, the provident fund amount as also the arrears of pension. Although, the principal sum along with interest in respect of gratuity and provident fund and life coverage scheme has been paid but only the principal sum on account of arrears of pension has been paid, the interest for delayed payment of the pension amount has not been paid. The concerned employee died on 7th January, 2007. The legal heirs/heiress of the deceased employee therefore was deprived of the pension amount between 8th January, 2007 and the date when the same was actually paid. Sofar as the interest component on the arrears of pension is concerned, there appears to be a dispute between ECL and Coal Mines Provident Fund Organization (in short CMPFO). ECL on one hand says that pension is to be paid by CMPFO and as such the delay, if any, is not attributable to ECL. As a consequence where of, ECL is not liable to pay any interest. CMPFO on the other hand says that the moment the requisition was made for paying the pension, CMPFO has paid the pension amount. The current pension amount is also been paid on regular basis.

It is now settled provision of law as held by the Hon'ble Supreme Court in judgment reported in ***(2022) 4 SCC 627 (Dr. A. Selvaraj Vs. C.B.M. College And Others***) that the employee or his/her nominee, legal heirs(s)/heiress cannot be deprived of the retiral benefits due to in-fight between the employee or the agency required to pay the same or any part or portion thereof . The Hon'ble Supreme Court in paragraph 12 of the said judgment has held as follows:-

> "12. *In that view of the matter, subject to the further final order that may be passed by the Government, the College/Management is first liable to pay the interest on the delayed payment of retirement dues subject to the final decision, which may be taken by the Government, after hearing the Management and the former Secretary. However, because of the inter se dispute between the Management, Secretary and the Government on who is responsible for the*

> *delay in making the payment and/or settling the dues, the retired employee should not be made to suffer for no fault of his."*

In view of such finding the heirs and heiress of the deceased employee cannot be made to run from pillar to post to receive the pension amount and then the interest on the delayed payment of pension from 2007.

In the aforesaid facts and circumstances, I direct the employer ECL to pay the interest on the arrears of pension from 8th January, 2007 till the same has been actually paid at the rate of 8% per annum at the first instance and thereafter settle the disputes, if any, with CMPFO in connection with the liability to pay interest for delayed payment of the pension. The liability will be fixed between ECL and CMPFO and the entity liable to pay interest will be ascertained amongst them. ECL is directed to pay the interest on the arrears of pension for the period between 08.01.2007 and the actual date of payment of the arrears of pension within 20th April, 2025 failing which the interest component will become 10% per annum from 8th January, 2007 till the same is paid.

Nothing further remains to be adjudicated in the writ petition, the same is accordingly disposed of.

The writ petition WPO/609/2024 is disposed of.

(ARINDAM MUKHERJEE, J.)

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