

(2007) 05 JH CK 0034
In the Jharkhand High Court

Bartu Oraon

APPELLANT

Vs

Regional Commissioner, Coal Mines Provident Fund, Region-II
and Others

RESPONDENT

Date of Decision : 18-05-2007

Acts Referred:

Citation : (2007) 4 JCR 198

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Judgement

Amareshwar Sahay, J.—Heard the parties and with their consent this writ application is being disposed of at this stage itself.

2. The prayer of the writ petitioner in this application is for direction to the respondents to settle and pay his entire retrial dues including full pension and arrears of pension with interest.

3. According to the petitioner, he was employed and working as Miner with the respondents Central Coalfields Limited and on attaining the age of superannuation he retired from the service on 08/09/1998. The grievance of the petitioner is that after his great efforts for payment of his retrial dues, only the amount of his Gratuity was paid to him but so far as the pension is concerned, on 28/12/1999 he received a letter from the respondents directing him to deposit Rs. 3259/- for getting the pension, which he accordingly deposited immediately but in spite of the said fact he has not been paid his pension.

4. On the other hand on 15/09/2003 by issue of Annexure-4 the petitioner was further directed to deposit Rs. 84,875/- for getting pension. On receipt of the said letter the petitioner represented to the respondents and made request to adjust the amount due against him from his pension hut the respondents did not pay any heed to the request of the petitioner and are not releasing his pension causing great financial hardship to him.

5. The respondent No. 1 Regional Provident Fund Commissioner, C.M.P.F., by

filing counter affidavit has stated that the Coal Mines Pension Scheme, 1998 is optional and to become eligible for receiving pension under contributory pension scheme the member first has to opt and then to contribute as per the scheme. It is further stated in the counter affidavit of respondent No. 1 that the petitioner was not a member of the Coal Mines Family Pension Scheme, 1971 as he opted not to join the scheme. However, he joined the Coal Mines Pension Scheme 1998 and the option exercised by the petitioner was accepted and, thereby, a demand notice was issued to him to deposit the pension contribution amount as per the provision of the Scheme but the petitioner has failed to deposit the amount demanded although he undertook to deposit the amount as per the option Form PS-1 (Annexure-R-1/B).

According to the respondent No. 1 since the petitioner has already been paid the CMPF amount and, therefore, now nothing remains to be paid to the petitioner by him. The demand notice of Rs. 84,875/- was issued to the petitioner by the respondent No. 1 as per the Scheme and if the petitioner deposits the said amount demanded by the respondent No. 1, his claim of pensionary benefit as per the Coal Mines Pension Scheme, 1998 shall be settled immediately.

6. The Central Coalfields Limited has filed the separate counter affidavit wherein it is stated that the writ petitioner has requested for settlement of his pension and adjustment of his amount payable from his end to the pension fund from the arrear of pension arising thereof but it is stated that there is no provision under the Coal Mines Pension Scheme, 1998 for adjustment in respect of PS-I optee. As a matter of fact, the adjustment is permitted only in respect of PS-II optee, who retired on or before 31/03/1998 and, therefore, the petitioner is required to deposit the required amount to the pension fund, with the Coal Mines Provident Fund Authority to consider his case for pension allotment.

7. As noticed earlier, the petitioner has already retired from the service on 08/09/1998 and the demand notice for depositing Rs. 84,875/- has been issued to the petitioner in the year 2003, i.e. after about five years of his retirement, which appears to be impossible for the petitioner to deposit particularly when his monthly pension is not being paid for one reason or the other. The respondent No. 1 should have considered the request of the petitioner for adjustment of the amount demanded from the arrears of pension sympathetically but he has not done so.

However, instead of giving any direction to the respondents in this regard, this writ application is being disposed of with a direction to the respondent No. 1 Regional Provident Fund Commissioner, CMPF, to consider the request of the petitioner sympathetically and take a decision in this regard and pass an appropriate order in accordance with law within a period of eight weeks from the date of receipt/production of a copy of this order.

With these observations and directions this writ application is disposed of.