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04.10.2023
D.Hira
Court No. 12

**In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side**

FMA 2415 of 2013

**Ajit Bhattacharji & ors.
Versus
Union of India & ors.**

**Ms. Reshmi Hossain,
Mr. M. Hossain,
Ms. M. Brahmachari,
Ms. Mohua Biswas,
Ms. Sabana Khatun.
... for the appellants**

**Mr. D.N. Roy,
Mr. Bhaskar Mukherjee,
Mr. Debductta Dutta.
... for the respondent
nos. 4, 5 and 6**

Affidavit-of-service filed in Court today is taken on record.

Learned counsel appearing for the appellants submitted that the similar matter was considered by the Hon'ble Apex Court in the judgment in **2022 SCC Online SC 594** that the persons who have not opted before the cut of date will automatically transferred to the pension scheme. The ratio in the said judgment is applicable to the facts of the present case since the appellants have not opted for transfer.

Learned counsel for the respondent nos. 4 to 6 submitted that the judgment relied on by the counsel

for appellant is applicable only for Delhi University and not to the Indian Institute of Management, Calcutta the respondent herein and he will argue to that effect.

Learned counsel for the respondents further submitted that in the paper book filed at page 247 the appellant have filed supplementary affidavit enclosing the documents without filing a petition for permission to file supplementary affidavit and hence, those documents cannot be relied on by this Court in the present appeal.

Both counsel for appellants and respondents seek time to argue the case.

At the request post the matter on 23rd November, 2023.

In re:- CAN 3 of 2022

Learned counsel for the appellants submitted that CAN 3 of 2022 was filed to rectify the status of the matter showing as dismissed and subsequently pending CAN 3 of 2022 it was rectified and the appeal is restored to the file.

In view of the same, CAN 3 of 2022 is closed as no order is necessary.

(V.M. Velumani, J.)

(Rai Chattopadhyay, J.)