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31.07.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No.18980 of 2024

Hindustan Fertilizer Corporation Ltd.
Vs.
Union of India&Ors.

Mr. Deepam Sarkar
Ms. Sanjukta Dutta
Mr. Ranajit Talukdar
Ms. Sharmistha Ghosh
... for the petitioner.

Mr. J. Rakshit
... for the P. F. Authority

Mr. S. N. Datta
Ms. S. Afreen
... for the respondent no. 1.

Affidavit of Service filed on behalf of the
petitioner be kept with the records.

Despite service, the respondent no. 5 remains
unrepresented.

The grievance of the petitioner is directed
against a communication dated May 31, 2024
whereby the petitioner has been directed to pay an
aggregate sum of Rs.2,15,077/- towards alleged
dues under Sections 7-A and 7-Q of the Employees
Provident Fund and Miscellaneous Provisions Act,
1952.

It is submitted on behalf of the petitioner that
the impugned order has been passed in violation of
the principles of natural justice. Moreover, the

entire claim of the private respondent no. 5 was belated and stale and ought to have been rejected. This aspect of the matter has not been adverted to in the impugned order. Admittedly, there are no reasons in the impugned order and the impugned order mechanically proceeds without considering the relevant facts and circumstances of the case.

Prima facie, the claim of the respondent no.5 has been raised after a period of 12 years. The respondent no.5 failed to provide any reasons for raising the same at such a belated stage. The impugned order also fails to provide any reasons.

The respondent no.5 despite being aware of the circular dated 5 December 2001, chose not to opt for EPS 1995 and opted for HFCL's Family Pension Scheme by filing nomination form.

The respondent no.5 has also taken mutually inconsistent positions and which has not been considered in the impugned order. *Prima facie*, the impugned order is unsustainable.

The parties are directed to exchange affidavits. Let Affidavit-in-Opposition be filed within a week from date; Reply thereto, if any, be filed a week thereafter.

The petitioner is also directed to serve notice along with a copy of this order on the private respondent. It is made clear that the above directions are peremptory in nature.

In the meantime, there shall be a stay in the impugned order dated May 31, 2024 until further orders of Court.

Let this matter appear in the monthly list of September, 2024.

(Ravi Krishan Kapur, J.)