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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3118/2015, C.M.47963/2018**

FEDERATION OF COAL INDUSTRIES

RETIRED EMPLOYEES ASSOCIATION & ORS

..... Petitioners

Through: Mr.Ravindra Shrivastava, Sr.Adv. with  
Mr.Navin Prakash, Mr.Anshuman Shrivastava,  
Mr.Abhijeet Shrivastava and Ms.Meetu Singh,  
Advocates

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr.Vivek Goyal, CGSC for UOI with Mr.Pawan  
Pathak, Advocate  
Ms.Prema Priyadarshini, Adv. for Respondents  
no.2 and 3.  
Mr.Vaibhav Agnihotri and Mr.Rudresh Jagdala,  
Advts. for Respondents no.4 to 6 and 9 to 12.  
Mr.Anurag Mathur, Adv. for R-13.

**CORAM:**

**HON'BLE MR. JUSTICE G.S.SISTANI**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER**

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**09.04.2019**

1. The substantive prayer made in this petition is to declare the impugned pension scheme i.e. Coal Mines Pension Scheme, 1998 (CMPS) framed under the provisions of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (CMPF Act) to be discriminatory, arbitrary and unconstitutional. Insofar as it seeks to operate from a cut-off date of 01.04.1994 as prescribed under Clause 2 (fa) read with Clause 4 (4) of CMPS and to include the coal workers who have retired prior to such cut-off date. The other grievance of the petitioners is that right from the inception of the scheme i.e. since 1998, there has been no revision of pension, though the wages have been revised upward several times. It is submitted that non-revision of the pension over the years has led to serious anomalies and the situation is so bleak that some of the retirees are still getting a paltry sum of pension ranging from Rs.49 to Rs.168 as monthly pension during the period 2009 to 2014.

2. It is pointed out by Mr.Ravindra Shrivastava, learned Senior Counsel for the petitioners that during the pendency of the writ petition, a committee was constituted and a report was submitted suggesting changes required in the pension scheme for sustainability of the CMPS in the decision taken in the 169<sup>th</sup> meeting of the Board of Trustees which was held on 14.03.2018. In view of the decision taken in the 169<sup>th</sup> meeting, two meetings of the sub-committee were subsequently convened on 14.05.2018 and 20.06.2018 to suggest changes required in CMPS. In the 169<sup>th</sup> meeting, it was suggested that the committee may also consider the recommendations of 'Actuary Report'.
3. We deem it appropriate to extract some of the recommendations of the first meeting held on 14.05.2018 and the second meeting held on 20<sup>th</sup> June, 2018, which read as under:

**Relevant recommendations of meeting held on 14.03.2018**

- “2. The Govt. Contribution to the corpus of CMPS 1998 which at present is 1.66% on the salary ceiling of Rs.1600/- (as pensionable salary) may be computed on the pensionable salary of Rs.15000/- as done in the case of EPFO.
3. The Minimum Pension should be increased to Rupees 1000/- per month as has already been agreed by the Govt. under Employees Pension Scheme by granting subsidy.”

**Relevant recommendations of meeting held on 20.06.2018**

- “1. The 10 months average salary which is being used as basis for calculation of “pensionable salary” presently should be revised to 30 months average salary.
2. Upper ceiling on the payable monthly pension should be limited to Rs.45,000/- Per Month or the highest amount of pension per month being given to any beneficiary in the month preceding the date of notification.
7. An amount of approx. Rs.250 Crores lying in DLI fund may be diverted after following due procedure of CMPFO since DLI scheme has become obsolete.

8. The Central Govt. may levy welfare cess of Rs.10/- on each tonne of coal produced to start with and to be contributed to Pension Corpus, since the scheme is a social security measure being run by GOI.
9. Representatives of Central Trade Unions strongly stated that the liability of existing pensioners may be taken care of by the enhanced 14% contribution prospectively; however for past pensioner's liability the deficit may be bridged through the joint effort of CIL to the Govt. of India – if required, by funding out of the dividend paid by CIL to the Govt. of India, till the time sufficient amount is available in the corpus to sustain the scheme as recommended by the Actuary.”
4. The learned senior counsel submits that some of the recommendations, if accepted and implemented, would substantially solve the problems, which are being faced by the retirees in relation to insufficiency of pension funds. He further submits that despite the report having been submitted nothing has been brought on record as to whether suggestions are likely to be implemented or some further suggestions or modifications to the report are being considered. We find that the Central Government has filed a short affidavit. The consistent stand of respondents no.2 and 3 has been the deficit in corpus of the Coalmines Pension Fund and thus, the inability for upward revision of CMPS.
5. Section 22 sub-section 3 of the CMPS, 1998 allows the Board to recommend the Central Government to amend the rate of contribution payable under the Scheme. In our considered opinion, the Central Government must file a detailed counter affidavit and more particularly, address as to whether the suggestions in the report are likely to be implemented and if not, the reasons for the same. It would be open for the Central Government to suggest any other measure, which would help in upward revision of CMPS. The counter affidavit be filed within three weeks with an advance copy to all the parties. Response thereto be filed before the next date of hearing.

6. List on 13.05.2019.
7. Copy of the order be given dasti under signatures of the Court Master.

**G.S.SISTANI, J**

**JYOTI SINGH, J**

**APRIL 09, 2019**

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*W.P.(C) 3118/2015*

*page 4 of 4*