



Serial No. 10
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No.465 of 2022

Date of Order: 02.06.2025

1. Loreto Convent School, Dhanketi, Shillong 793001,
East Khasi Hills District, Meghalaya
2. Loreto Educational Society, Dhanketi, Shillong
Represented by its Secretary.
3. Principal Loreto Convent School, Dhanketi, Shillong
East Khasi Hills District.

..... Writ Petitioners

-VERSUS-

2. Employees Provident Fund Organization,
Ministry of Labour and employment, Government of India,
Regional Office Laitumkhrah Police, Point Shillong-793003.
3. Regional Provident Fund Commissioner-II Employees
Provident Fund organization Office, Laitumkhrah
Police Point Shillong-793003.
4. Assistant Regional Provident Fund Commissioner,
Sub-Regional Office Laitumkhrah, Shillong-793003.
5. Recovery Officer, Employees Provident Fund organisation
Sub-Regional office Shillong-793003.

..... Respondents.



Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S. Sen, Adv with
Ms. E. Blah, Adv

For the Respondent(s) : Ms. P. Bhattacharjee, Adv with
Mr. Z.A. Choudhury, Adv

JUDGMENT AND ORDER (Oral)

1. Heard Mr. S. Sen, learned counsel for the petitioners and also Ms. P. Bhattacharjee, learned counsel for the respondents.

2. In this writ petition, the petitioners have challenged the validity of the impugned summon No: NE/SHG/0001257/000/Enf501/Damages/2230 dated 15.12.2021 (02.12.2021), issued by the Assistant Provident Fund Commissioner, Sub-Regional office Shillong, and the impugned orders dated 31.10.2022 and 02.11.2022 passed by the Regional Provident Fund Commissioner-II for payment of damage and interest under section 7Q and 14B of the Employees Provident Fund and Miscellaneous Provision Act, 1952 (hereinafter referred to as the Act of 1952). By the impugned notice and orders, a sum of Rs. 16,64090.00 was sought to be realised from the petitioners for delayed remittance of their contribution for the period of October 1997 to April 2007.

3. In the year 2004, the respondents had issued a notice dated 18.10.2004 imposing interest and damage under section 7Q and 14B of the Act of 1952 for an amount of Rs.7,36,002/- on the petitioners. Thereafter an enquiry was held by the respondents and order dated 09.12.2004 was passed by the



Assistant Provident Fund Commissioner imposing an amount of Rs.7,36,002/- towards interest and damage for alleged belated payment for the period of March 1988 to June 2001. Accordingly, a demand notice dated 29.04.2005 was issued to the petitioners by the Recovery Officer, Employees Provident Fund Organisation, Sub-Regional Office Shillong. The said order and the demand notice were put to challenge in WP(C) No.160(SH) of 2005 before the then Shillong Bench of the Guwahati High Court. By order dated 12.08.2008 the High Court reduced the amount demanded by the Recovery Officer and directed the petitioner to make the payment within one month. In compliance with the order dated 12.08.2008, the petitioners' school deposited the entire amount by challan dated 27.08.2008 and further intimated the same to the Assistant Regional Provident Fund Commissioner by letter dated 03.09.2008.

4. Mr. S. Sen, learned counsel for the petitioners submits that since the petitioners' school has already settled the entire claim and demand of the respondents for the period of March 1988 to June 2001 on the basis of a judicial order, the respondents could not have raised any fresh claim or demand for the same period which stood covered by the order of the High Court dated 12.08.2008. He submits that by the impugned summon dated 15.12.2021(02.12.2021) and the impugned orders dated 31.10.2022 and 02.11.2022 the respondents have arbitrarily made a demand for the period of October 1997 to April 2007 by including the period till June 2001 in gross violation of the order dated 12.08.2008 of the High Court. He contends that the demand made by the respondents is also contrary to the provisions contained in section 7C of the Act of 1952. He submits that the impugned demand of the respondents, without segregating the period for which admittedly all the dues stood cleared, is wholly arbitrary and liable to be interfered by this Court.



5. Ms. P. Bhattacharjee, learned counsel for the respondents on the other hand submits that the impugned notice and demand are not only confined to the period covered by the order dated 12.08.2008 of the High Court, but also for the period for which no settlement has been made. The learned counsel further submits that the demand made in the present case is with regard to the amount which is not covered by the earlier demand notice dated 29.04.2005 and the High Court's order dated 12.08.2008 and hence there is no overlapping of damages dues. The learned counsel, however, submits that in the event this Court interferes with the impugned notice and orders, liberty be given to the respondents to initiate proceeding with regard to the period which is not covered by the order dated 12.08.2008.

6. Considered the submissions made by the parties and also perused the materials on record. It transpires that all the claims and demand of the respondents pertaining to the period of March 1988 to June 2001 stood covered and settled by virtue of the order dated 12.08.2008 in WP(C) No. 160(SH) of 2005. Therefore, the respondents are barred from making any fresh demand for interest and damage for the period till June 2001. It is clear from the impugned order dated 02.11.2022 that the petitioners are ordered to make payment for interest and damage under section 7Q and 14B of the Act of 1952 for the period of October 1997 to April 2007. The period of October 1997 till June 2001 stood covered and settled by order dated 12.08.2008 and hence, the respondents could not have made any claim or re-assessment with regard to the said period. The settlement made by judicial intervention cannot be subject to re-determination or re-assessment of the respondents.

7. For the reasons stated above, the impugned summon No. NE/SHG/0001257/000/Enf501/Damages/2230 dated 15.12.2021 (02.12.2021) and orders dated 31.10.2022 and 02.11.2022 are hereby set



aside and quashed. However, the respondents will be at liberty to issue fresh notice/demand with regard to the period not covered by the order dated 12.08.2008, if permissible in accordance with law. Needless to say, in the event of initiation of any such proceedings by the respondents, the petitioners shall also have the right to avail all the legal remedy available to them.

8. The writ petition stands disposed of. No costs.

Judge

Meghalaya
02.06.2025
"Shrity,PS"