

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1598 of 2012

In
Civil Writ Jurisdiction Case No. 47 of 2011

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M/S Rastogi Vastralaya (P) Ltd. through its Managing Director, B.K. Rastogi @ Birendra Kumar Rastogi, Rastogi Market, Chowk Bazar, Biharsharif, Nalanda 803101, Bihar.

.... Appellant/s

Versus

1. The Assistant Provident Fund Commissioner, Bihar Bhavisyanidhi Bhawan, R. block, Road No.6, Patna 800001.
2. The Presiding Officer, Employees Provident Fund Appellate Tribunal, Scope Minar, Core II 4th Floor, Laxmi Nagar, District Centre, Laxmi Nagar, New Delhi 110092.

.... Respondents

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Appearance :

For the Appellant : Mr. Yugal Kishore, Sr. Advocate.
Mr. Birendra Narayan Sharma, Advocate.
For the Respondents : Mr. Prashant Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA
and
HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE V.N. SINHA)

2 20-07-2015 Heard learned counsel for the appellant and the learned counsel for the Provident Fund Commissioner.

2. The appellant is aggrieved by the order of the learned single Judge dated 20.07.2012 passed in C.W.J.C. No. 47 of 2011 whereunder the writ petition assailing the order of the Assistant Provident Commissioner and the Tribunal holding the writ petitioner liable to pay contribution of 24 workers of his establishment has been rejected holding that the question raised in the petition cannot be agitated in writ jurisdiction as the same is



disputed question of fact. The petitioner asserted that in his establishment only eight employees were serving and direction to contribute for further 16 employees cannot be complied with as he is not aware about their name and in whose account he should deposit the amount. The aforesaid submission has been rejected by the authorities under the Provident Fund Act on the ground that Sri Rastogi, the Managing Director himself signed the coverage register indicating 24 workers serving in his establishment.

3. The learned counsel for the appellant with reference to the attendance register (Annexure-1) and the carbon copy of the coverage register submitted that from the attendance register it will appear that in the establishment only eight employees were serving. Columns 5 and 6 of coverage register is about the number of the employees serving in the establishment. Column 5, 6 of A/2 will indicate that the same is blank and the Officer visiting the establishment asked the petitioner not to fill-up Column 5, 6 of the coverage register leaving those columns blank, so submitted counsel for the appellant. The authorities below have refused to entertain such submission holding that the petitioner put his signature on the coverage register, columns 5 and 6 whereof indicated 24 employees serving in the establishment.

4. The learned single Judge considered the submission

under the impugned order by observing that the question raised is being disputed by the Provident Fund Commissioner.

5. We see substance in the order of the learned single Judge and it may not be possible for this Court to go behind the coverage register and Columns 5 and 6 whereof indicating 24 employees serving in the establishment of the appellant only on the ground that their names are not being furnished by the authorities which is for the Managing Director of the establishment to indicate the names of the employees.

6. In that view of the matter, we do not find any merit in the appeal which is accordingly dismissed.

(V.N. Sinha, J)

Abhay/-

(Jitendra Mohan Sharma, J)

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