

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.369 OF 2015

BHIMRAO T.PAWAR

PETITIONER

VERSUS

EMPLOYEES PROVIDENT FUND ORGANISATION
AND OTHERS

RESPONDENTS

Mr.T.K.Prabhakaran, Advocate for the petitioner.

Mr.K.B.Chaudhari, Advocate for respondent Nos. 1 and 2.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 09/03/2015

PER COURT :

1. I have heard Mr.Prabhakaran, learned Advocate for the petitioner and Mr.K.B.Chaudhary, learned Advocate on behalf of the respondents for quite some time.

2. Issue is as regards levy of damages u/s 14-B and interest u/s 7-Q of The Employees Provident Fund and Miscellaneous Provisions Act, 1972 (For Short, the Act). The petitioner has specifically opposed the levy of damages and interest, in response to the notice dated 01/02/2012 and 02/02/2012 by submitting a detailed reply dated 14/10/2014. The hearing on Section 14-B and 7-Q had commenced.

3. Grievance of the petitioner is that on 11/11/2014, the

petitioner Proprietor, who has no knowledge as regards the Act, was purportedly coerced by respondent No.3 / Authority and was compelled to admit damages to be levied u/s 14-B and interest in light of Section 7-Q of the Act.

4. On 12/11/2014, the petitioner specifically raised an objection about the manner in which respondent No.3 had conducted the proceedings, by sending a representation to respondent No.3. Despite raising serious objections and opposing the noting in the Roznama of the proceeding dated 11/11/2014, respondent No.3 has proceeded to pass an order levying damages for belated payments u/s 14-B as well as interest u/s 7-Q of the said Act.

5. Mr.Prabhakaran, learned Advocate, therefore, submits that the manner in which respondent No.3 is conducting the proceeding, is deprecable and this Court should take a judicial note of the said conduct.

6. He further makes a grievance that the purported admission given by the petitioner has not been considered while passing the impugned order in the light of the representation of the petitioner dated 12/11/2014. No reference is made to the purported admission

obviously in the light of the serious objections raised by the petitioner. If that be so, the concerned authority should have permitted the petitioner an opportunity to present his case and then deliver an order as he may deem appropriate. Mr.Prabhakaran, therefore, submits that the record clearly indicates the high handedness on the part of respondent No.3 and the slipshod manner in which he is conducting the proceeding.

7. Mr.Chaudhary, learned Advocate on the one hand, submits that the Roznama does indicate that the petitioner had admitted the damages and interest. On the other hand, he submits that the impugned order has been passed on its merits thereby indicating that the admission of the petitioner was not considered since it stood retracted / withdrawn owing to his communication dated 12/11/2014.

8. Having considered the fact situation, in my view the impugned order deserves to be quashed and set aside in the light of the peculiar controversy that emerges from record. When the petitioner had specifically objected to the manner in which he was coerced to make an admission, the respondent authority should have issued a notice of hearing to the petitioner, since the file / proceedings appear to

have been closed for orders in the light of the statement recorded in the proceeding sheet on 11/11/2014. The said noting clearly indicates that because the petitioner admitted the damages and interest, respondent No.3 / Authority reserved the matter for order by observing that "*basing on his contention I proceed to conclude the proceeding today.*"

9. As such, the respondent, having received the objections from the petitioner, has therefore not taken into account the said admission while passing the impugned order. If that be the position, the respondent should have permitted the petitioner to make his submissions and address the mind of the authority since the circumstances in which the proceedings were closed for orders, no longer existed.

10. In the light of the above, this petition is partly allowed. The impugned order dated 28/11/2014 is quashed and set aside. The proceeding No.MH/AB/81169/Damages/Cir.502/SRO/2014/4135 is relegated back for hearing the petitioner from the stage at which it was closed for orders. Needless to state, the concerned authority shall give a reasonable opportunity to the petitioner for setting forth

his case. The petitioner is also at liberty to file written notes of submissions.

11. In the light of the grievance put forth in this petition and without drawing any conclusions on the same, it is expected of the concerned authority that the procedure laid down in Law needs to be followed while causing hearing in the matters under the Act and adequate and reasonable opportunity deserves to be granted to the litigating parties in support of their case. It is, therefore, expected that the respondent authority shall follow the appropriate procedure in dealing with such proceedings.

(RAVINDRA V. GHUGE, J.)