

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.3232 OF 2015

ORDER:

The petitioner challenges the order dated 04.02.2015 passed by the 2nd respondent-Assistant Provident Fund Commissioner, Nizamabad, whereunder and whereby Penal Damages and Interest on delayed payment of dues for the period from 08/1991 to 01/2014, was levied.

A perusal of the impugned order shows that a sum of Rs.7,99,721/-, which includes damages of Rs.5,13,850/-, as payable by the petitioner, under Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short, 'the Act') and a sum of Rs.2,85,871/- was determined as Interest under Section 7Q of the Act.

When the matter is taken up for hearing, Sri B. Narasimha Sharma, learned standing counsel submits that an alternative remedy under Section 7(i) of the Act is available to the petitioner and this Court may relegate the petitioner to avail the same on the grounds mentioned by the petitioner in his affidavit. He further submits that a Demand Draft for a sum of Rs.3,92,000/- drawn in favour of the E.P.F Organisation was already made available by the petitioner.

Having considered the rival submissions and considering the fact that a sum of Rs.3,92,000/- has already been recovered, no useful purpose would be served by keeping the writ petition pending.

Hence, this Court is of the view that the writ petition can be disposed of by giving liberty to the petitioner to approach the appellate authority by filing an appeal, along with an application seeking condonation of delay, if any, in filing the appeal. As and when such appeal is filed, the appellate authority shall consider and dispose of the same especially considering the fact the mandatory pre-deposit

amount as required for the purpose of filing of the appeal has already been recovered. The appellate authority shall also consider the fact that levy of damages is not automatic, and examine whether the petitioner's case really warrants levy of damages in view of the fact that it is a college serving the public purpose. However, till disposal of the appeal, the respondents shall not take any coercive steps with regard to the Penal Damages and Interest on delayed payment from the petitioner.

With the above observations, the writ petition is disposed of. No order as to costs. Miscellaneous Petitions, if any pending in this writ petition shall stand closed.

JUSTICE CHALLA KODANDA RAM

Date:16.02.2015

Gk.

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.3232 OF 2015

Date:16.02.2015.

Gk.