

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.619 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 24576 of 2013
Along with
Interlocutory Application No.2699 of 2015

- =====
1. The Central Board of Trustees Employees Provident Fund Organization through the Assistant Provident Fund Commissioner (Legal), Employees, Provident Fund Organization, Regional Office, R. Block, Road No. 6, P.S.- Sachivalaya, District- Patna.
 2. The Regional Provident Fund Commissioner, Bhagalpur
- Respondents-Appellants

Versus

M/s Bharat Sanchar Nigam Limited , Telecom District, Munger through its Accountants Officer, Dhananjay Kumar Pandey, son of late P.N. Pandey, resident of Office of T.D.M. , Bekapur Telephone Exchange Campus BSNL, P.S. - Munger, District- Munger.

.... Petitioner- Respondent

With

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Letters Patent Appeal No. 664 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 20504 of 2014
Along with
Interlocutory Application No.2848 of 2015

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1. The Central Board of Trustees Employees Provident Fund Organization through the Assistant Provident Fund Commissioner (Legal), Employees Provident Fund Organization, Regional Office, R. Block, Road No. 6 , P.S. - Sachivalaya, District – Patna.
 2. The Regional Provident Fund Commissioner, Patna.
 3. The Assistant Provident Fund Commissioner, Bhagalpur.

.... Respondents- Appellants

Versus

M/s Bharat Sanchar Nigam Limited, Telecom District, Munger through its Accounts Officer, D.K. Pandey, son of late P.N. Pandey, Resident of Office of T.D.M. , Bekapur Telephone Exchange Campus BSNL, P.S. - Munger, District- Munger.

.... Petitioner-Respondent

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Appearance :

(In both the Appeals)

For the Appellant/s : Mr. Prashant Sinha, Advocate

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 20-07-2016

Re. : Interlocutory Application Nos.2699 of 2015 and 2848
of 2015 in L.P.A. No.619 of 2015 and in L.P.A.
No.664 of 2015 respectively.

The applications are for condonation of delay of 20 days in filing of the present Letters Patent Appeals.

For the reasons mentioned in the applications, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeals.

Interlocutory Application stand allowed accordingly.

Re.: Letters Patent Appeal No.619 of 2015 and Letters
Patent Appeal No.664 of 2015

This order shall dispose of L.P.A. No.619 of 2015 and L.P.A. No.664 of 2015 directed against a common order passed by the learned Single Bench on 13th of January, 2015 whereby, an order passed under Section 7A of the Employees Provident Fund and Miscellaneous Provision Act, 1952 (hereinafter referred to as 'the Act'), subject matter of challenge in CWJC No.24576 of 2013, and consequent order passed under Section 14B and 7Q of the Act, subject matter of challenge in CWJC No.20504 of 2014, were set aside and the writ applications were allowed.



Learned counsel for the appellants vehemently argued that the impugned order was passed by the Regional Provident Fund Commissioner, Bhagalpur on 24th September, 2009, but instead of filing an appeal, the writ petitioner-respondent herein invoked the jurisdiction of this Court and that too after more than three years. It is contended that the learned Single Bench should not have interfered with the order passed by the Regional Provident Fund Commissioner, Bhagalpur on account of delay and laches in approaching the Court and also on account of not availing the alternative remedy.

Admittedly, the respondent herein has deposited the statutory dues though after some delay. The entire basis of the order passed by the Regional Provident Fund Commissioner is that writ petitioner did not cooperate in the proceedings nor presented the supportive documents. It was found that the Regional Provident Fund Commissioner has completely failed to discharge his duty rather has taken the shortest possible route for arriving at a conclusion which is not expected of a statutory authority while performing adjudicatory quasi judicial function. The learned Single Bench further held that quantification of liability on the basis of payment made to the contractor which is inclusive of goods and service does not end the responsibility of the Regional Provident Fund Commissioner. The Court found that determination of money due is not in consonance with

the provisions of the Act.



We have heard learned counsel for the appellants and find no merit in the present Letters Patent Appeals. It is well settled that availability of alternative remedy does not bar the jurisdiction of the Writ Court. It is in the judicial discretion of the Writ Court to interfere in the proceedings or not even if the alternative remedy is available. Such discretion is in the facts and circumstances of the case. Since the order passed by the Regional Provident Fund Commissioner was found to be wholly illegal, therefore, the Writ Court interfered with the order passed by the Regional Provident Fund Commissioner. The mere fact that the learned Single Bench has interfered with the order is not a ground to accept the plea of alternative remedy in the Letters Patent Appeal.

Similarly, the plea of delay in approaching the Writ Court is again lies in the judicial discretion of the Court. It is well settled that there is no limitation prescribed for invoking the jurisdiction of the Writ Court. The delay and laches are the possible grounds on which the Writ Court can refuse to interfere in a particular *lis*, but if the order is found to be untenable, the interference by the Writ Court cannot be said to be untenable only for the reason that the writ application was filed after some delay.

In view of the said fact, we do not find any error in the

finding recorded by the learned Single Bench which may warrant interference in the present Letters Patent Appeals. The same are, therefore, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	
CAV DATE	N. A.
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