

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5818 OF 1995

Popatlal s/o Mohanlal Chordiya,
Age : 48 years, Occupation : Business,
R/o Ahinsanagar, Aurangabad.

...PETITIONER

-VERSUS-

- 1 The State of Maharashtra.
- 2 The Assistant Commissioner,
Sub Regional Provident Fund Office/
Organization, Aurangabad.
- 3 Union of India.
Through
Commissioner of Sub Regional
Provident Fund Office.

...RESPONDENT

WITH
CIVIL APPLICATION NO.11145 OF 2014
The Assistant Commissioner,
Sub Regional Provident Fund Office/ Organization.
-versus-
Popatlal Mohanlal Chordiya and others.

...

None for Petitioner.

AGP for Respondent 1 : Shri P.N.Kutti.

Advocate for Respondents 2 and 3 : Shri K.B.Chaudhari.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 21st September, 2016

Oral Judgment :

1 None appeared for the Petitioner on 15.09.2016 and the matter was posted today for dismissal. None appears for the Petitioner even today. Rather than dismissing the matter in default, I am deciding the same on it's own merits.

2 The Petitioner is aggrieved by the order dated 22.03.1995 (wrongly mentioned as 12.03.1995 in prayer clause (B)) passed by Respondent No.2/ EPF Authority, Aurangabad. The Petitioner is also aggrieved by the order dated 13.10.1995 (wrongly mentioned as 05.10.1995 in prayer clause (C)) by which Respondent No.2/ EPF Authorities have resorted to the provisions of Section 8F of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 for ensuring recovery of the assessed amounts.

3 From the pleadings in the memo of the petition, it appears that the Petitioner was given an adequate opportunity of being heard in the Section 7-A proceedings. The affidavit in reply filed by the EPF Authorities indicates that despite several opportunities, the Petitioner did not participate in the hearing and tried to prolong the hearing in the matter.

4 It is not in dispute that the order under Section 7-A should have been challenged before the Appellate Tribunal under Section 7-I. I am, however, not inclined to consider this aspect of the matter since this petition has been admitted by this Court by order dated 14.07.1997 and the petition is pending in this Court for about 21 years.

5 Be that as it may, had the Petitioner approached the Appellate Tribunal under Section 7-I, he would have been under an obligation to deposit 75% of the assessed amount under Section 7-O as a precondition for entertaining such an appeal. In my view, ends of justice would be met by directing the Petitioner to deposit Rs.4 lac with Respondent No.2/ EPF Authority, Aurangabad out of the assessed amount of Rs.6,12,330/- as a precondition for a rehearing in the matter.

6 Shri Chaudhari, learned Advocate for Respondent No.2, strenuously submits that an amount of at least Rs.10 lac should be directed to be deposited since the amount of Rs.6,12,330/- was assessed on 13.10.1995 which is 21 years ago and considering simple interest on the amount, the recoverable amount would be more than Rs.20 lac today.

7 In the light of the above, this Writ Petition is partly allowed with the following directions :-

- (a) The impugned orders dated 22.03.1995 and 13.10.1995 shall be kept in abeyance by directing Respondent No.2/ EPF Authority, Aurangabad to permit the Petitioner to participate in Section 7-A proceedings.
- (b) The Petitioner shall appear before Respondent No.2 on 24.10.2016 and shall deposit an amount of Rs.4 lac with Respondent No.2 on or before 24.10.2016 as a precondition for enabling a rehearing under Section 7-A.
- (c) Needless to further state, the Petitioner shall deposit the said amount if the order dated 13.10.1995 seeking recovery of the amount under Section 8-F has not been implemented.
- (d) The Petitioner is at liberty to file a detailed reply and tender such documents as he may deem appropriate in support of his case.
- (e) Respondent No.2 shall give sufficient opportunity of hearing to the Petitioner and shall conclude the proceedings by 30.12.2016 and shall proceed to deliver a reasoned order under Section 7-A on or before 31.01.2017.
- (f) Needless to state, in the event, the Petitioner does not comply with the directions as above on or before 24.10.2016 by depositing the amount, the impugned orders dated 22.03.1995 and 13.10.1995 shall stand restored and be

executable.

8 Rule is made partly absolute in the above terms.

9 In view of disposal of the Writ Petition, the pending Civil Application does not survive and the same also stands disposed of.

kps

(RAVINDRA V. GHUGE, J.)