

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

34 WRIT PETITION NO.1684 OF 2016

AKOLE TALUKA EDUCATION SOCIETYS INDUSTRIAL
TRAINING INSTITUTE THROUGH ITS PRINCIPAL
VERSUS
ASST PROVIDENT FUND COMMISSIONER SUB REGIONAL
OFFICE NASHIK

...

Advocate for Petitioner : Mr. V.P.Golewar

Mr. Chaudhary K.B., Adv. For R/sole.

CORAM : P.R.BORA, J.

DATE : 27th June, 2016.

PER COURT :

1) Heard. Shri K.B. Choudhari, learned Counsel appearing for sole respondent submits that though the impugned order dated 13.1.2016 appears to be a separate order, it was, in fact, an order passed in common proceedings by conducting common hearing and for identical period from 1.4.1996 to 30.9.2015. The learned counsel further submitted that order dated 13th January, 2016 in proceeding No. MH/50631/PF/SRO/NSK/DAM/3468, has been already

challenged by the petitioner before the Employees Provident Fund Appellate Tribunal at New Delhi. The learned counsel further submitted that since the impugned order of the same date under Section 7-Q has a direct nexus with the order dated 10.9.2015 passed under Section 14-B of the Employees' Provident Fund & Misc. Provisions Act, 1952, (for short, the Act) the petitioner can very well prefer an appeal before the Employees Provident Fund Appellate Tribunal, which would facilitate the Tribunal in considering the entire controversy.

2) The learned Counsel brought to my notice that in the similar set of facts, this Court, in Writ Petition No.9859/2015, has granted liberty to the petitioner therein to approach the Employees Provident Fund Appellate Tribunal at New Delhi. A copy of the said order is also placed on record.

3) The learned counsel for the petitioner

submits that the petitioner would prefer an appeal before the Employees Provident Fund Appellate Tribunal, New Delhi for challenging the order dated 13.1.2016 passed under Section 7-Q of the Act and, therefore, he has prayed for withdrawal of the petition with liberty as prayed for.

4) In view of above, the writ petition is disposed of as having been withdrawn. In the event the petitioner prefers an appeal before the Employees Provident Fund Appellate Tribunal, in view of the statement of the respondent herein, as recorded above, the time spent before this court shall be a good ground for condonation of delay, if any.

5) Since the petitioner states that the appeal will be preferred within four weeks from today, the respondent authority shall not resort to coercive action for a period of four weeks so as to enable the petitioner to present the

appeal.

6) It will be open for the petitioner to seek withdrawal or transfer of the amount deposited in this Court depending upon the decision of the Employees Provident Fund Appellate Tribunal.

(P . R . B O R A , J .)

bdv/