

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.3242 OF 2016

Hotel Riviera Executive,
Near New Indian Airlines
Office, Jalna Road, Aurangabad,
Through its Proprietor,
Kailash s/o Ramrao Patil,
Age-60 years, Occu:Business.

...PETITIONER

VERSUS

The Assistant Provident Fund
Commissioner, S.R.O. Aurangabad,
Tq. & Dist-Aurangabad.

...RESPONDENT

...

Mr.S.S. Thombre Advocate for Petitioner.
Mr.K.B. Chaudhari Advocate for Respondent.

...

**CORAM: S.V. GANGAPURWALA AND
A.I.S. CHEEMA, JJ.**

DATE : 18TH MARCH, 2016

ORAL JUDGMENT [PER S.V. GANGAPURWALA, J.] :

1. Heard learned counsel for the Petitioner

and learned counsel for Respondent, finally. Rule. Rule made returnable forthwith.

2. The orders are passed under Section 14B and 7Q of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 ("Act of 1952") against the Petitioner. The Petitioner is made liable to pay an amount of Rupees Ten Lakhs and odd under Sections 14B and 7Q of the Act of 1952. Mr. Thombre, learned counsel contends that the Petitioner had initially attended the dates of hearing but subsequently as the adjourned date was not communicated to the Petitioner, the Petitioner could not remain present. According to the learned counsel, appearance was filed through the Advocate on 26th August 2015. On that day the concerned authority was on leave. Hearing was adjourned to 30th September 2015. On 30th September 2015, hearing was adjourned to 14th October 2015 and 9th December 2015 was the last date of hearing and on that date nobody could remain present on behalf of

the Petitioner and authority passed an order. According to the Petitioner, order of damages and interest is harsh. The factum of payment of Provident Fund earlier, has not been considered by the authority. The orders are improper. The Petitioner be given an opportunity to appear before the authority and put forth its case.

3. Mr. Chaudhari, learned counsel for Respondent submits that ample opportunity is given to the Petitioner, however the Petitioner consistently either remained absent or sought adjournments. The authority, after considering all the papers, passed impugned orders.

4. We have considered the submissions advanced before us. Perusal of the impugned orders, it is manifest that the Petitioner did not remain present for hearing. Orders are passed under Section 14B and 7Q of the Act of 1952 i.e. the amount which is adjudicated against the

Petitioner is in respect of damages and interest for late payment of the Provident Fund.

5. Considering the fact that the orders impugned are ex-parte one and the Petitioner could not remain present for the hearing, we are inclined to grant one more opportunity to the Petitioner. However, the Petitioner is required to deposit the part of the amount. In the result, we pass the following order:

6. The impugned orders are quashed and set aside, on the condition that the Petitioner deposits an amount of Rupees Seven Lakhs with the Respondent on or before 30th March 2016. The Petitioner is relegated before the Authority. The Petitioner shall appear before the Authority on 30th March 2016.

7. The Authority shall decide the proceedings under Section 14B and 7Q of the Act of

1952 afresh upon hearing the Petitioner.

8. Rule is accordingly made absolute in
above terms. No costs.

[A.I.S.CHEEMA, J.]

[S.V. GANGAPURWALA, J.]

asb/MAR16