

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10765 of 2016

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M/s Sasaram Bhabua Central Cooperative Bank Limited, Karahgar More, Sasaram, Rohtas through the Managing Director, Nikesh Kumar, son of Late Nageshwar Ram, resident of Mohalla- Heramdaga, P.O. Gola, Police Station- Gola, District- Ramgarh (Jharkhand).

.... Petitioner

Versus

1. The Union of India through the Secretary, Ministry of Labour and Employment, Govt. of India.
2. Employee Provident Fund Organization, Regional Office, Patna.
3. Regional Provident Fund Commissioner, Bihar, Patna.
4. Assistant Provident Fund Commissioner, Bhavishyanidhi Bhawan, R. Block Road No. 6, Patna- 800001.

.... Respondents

with

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Civil Writ Jurisdiction Case No. 12252 of 2016

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M/s Sasaram Bhabua Central Cooperative Bank Limited, Karahgar More, Sasaram, Rohtas through the Managing Director, Nikesh Kumar son of Late Nageshwar Ram, resident of Mohalla- Heramdaga, P.O. Gola, Police Station- Gola, District- Ramgarh (Jharkhand).

.... Petitioner

Versus

1. The Union of India through the Secretary, Ministry of Labour and Employment, Govt. of India.
2. Employee Provident Fund Organization, Regional Office, Patna.
3. Regional Provident Fund Commissioner, Bihar, Patna.
4. Assistant Provident Fund Commissioner, Bhavishyanidhi Bhawan, R. Block Road No.6, Patna- 800001.



5. Recovery Officer, Employees Provident Fund Organization, Regional Office,
Bihar, Patna.

.... Respondents

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Appearance :

(In CWJC No.10765 of 2016)

For the Petitioner/s : Mr. A. Raja, Advocate

For the Respondent/s : Mr. S.D Sanjay (addl. Soc. Gen.)

For EPFO : Mr. Sarva Deo Singh, Advocate

(In CWJC No.12252 of 2016)

For the Petitioner/s : Mr. Sajid Salim Khan, Advocate

For the R. No. 1 : Mr. Anshuman Singh, Advocate

For R. Nos. 2 to 5 : Mr. Satyendra Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 27-02-2017

The facts and issues involved in these two cases are common and, hence, they have been taken up together for adjudication.

2. The petitioner, M/s Sasaram Bhabua Central Co-operative Bank Limited has filed both these applications for quashing the respective orders passed by the Assistant Provident Fund Commissioner under Sections 14-B and 7-Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short 'Act') whereby certain amounts have been levied towards damages and interest upon the petitioner under the provisions of the Act and further, for quashing of warrants of attachment of movable property.

3. A preliminary objection has been raised by the



respondents regarding the maintainability of the writ application on account of availability of statutory remedy of appeal as provided under Section 7-I of the Act.

4. Answering the preliminary objection of the respondents, learned counsel appearing for the petitioner submitted that the orders impugned have been passed in the most arbitrary and mechanical manner without adhering to the provisions of the Act prescribed under the law and hence, the writ applications would be maintainable in law. He submitted that since the matter was earlier entertained by this Court, it would not be proper to remit the matter to the tribunal for adjudication of the issues.

5. I have heard respective counsels for the parties and perused the record.

6. The statutory remedy of appeal provided under Section 7-I of the Act stipulates as under :

“7-I. Appeals to Tribunal.-(1) Any person aggrieved by a notification issued by the Central Government, or an order passed by the Central Government or any authority, under the proviso to sub-section (3), or sub-section (4), of section 1, or section 3, or sub-section (1) of section 7-A, or section 7-B [except an order rejecting an application for review referred to in sub-section (5) thereof], or section 7-C, or section 14-B, may prefer an appeal to a Tribunal against such notification or order.

(2) Every appeal under sub-section (1) shall be filed in such form and manner, within such time and be accompanied by such fees, as may be



prescribed.”

7. In view of the hierarchy of appeal having been provided in the statute, I am of the considered opinion that the petitioner must exhaust the statutory remedy before approaching this Court under the writ jurisdiction as the remedy provided in a writ jurisdiction is not intended to supersede completely the modes of obtaining relief by statutory remedy before the tribunal.

8. Accordingly, both the writ applications are disposed of with liberty to the petitioner to prefer appeal before the appellate tribunal for redressal of its grievances.

9. It is needless to state that this Court has not applied its mind to the merits of the case.

10. In case of filing the appeal, the tribunal shall also keep in mind that the right of a party should not be frustrated only because the lawyer chose a wrong forum.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	...
Uploading Date	01.03.2017
Transmission Date	

