

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1004/2017
IN
WRIT PETITION NO.12845/2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. A. P. Wachasunder for the applicant
Mr. Suresh Kumar for the respondent

CORAM : K. K. TATED, J.
DATE : MAY 3, 2017

P.C.:

1. Heard. This Application is made by the respondent for permitting them to withdraw sum of Rs.13,22,571/- deposited by the petitioner pursuant to the order passed by the Employees Provident Fund Appellate Tribunal, New Delhi in ATA No.1153(9)/2015 and order dated 18.11.2016 passed by this court in Writ Petition No.12845/2016.

2. In the present proceedings, the applicant preferred an appeal under section 7-I of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (said Act) challenging the order dated 27.07.2015 passed by the Assistant

Provident fund Commissioner u/s.17 of the said Act.

3. Considering the evidence on record, the Appellate Tribunal, by its impugned order dated 22.08.2016 directed the petitioner to refund the amount collected by them as per the order dated 27.07.2015 u/s.7-A of the said Act.

4. The learned counsel for the applicant submits that the appellate tribunal held that the applicants are not liable to pay provident fund on the amount paid towards over and above basic salary. He submits that the applicant may be permitted to withdraw the amount deposited by the petitioner during pendency of the present Writ Petition.

5. The learned counsel for the applicant submits that in the present proceedings, the appellate tribunal, on the basis of the judgment in the matter of *Assistant PF Commissioner Vs. G4S Securities (India) Ltd., 2011 LER 316 Punjab & Haryana High Court*, directed the respondent to refund the amount. He submits that the said SLP is pending before the Apex Court. Hence, there is no question of allowing the applicant to withdraw the amount deposited by them.

6. Heard the learned counsel for the parties. The appellate tribunal, by the impugned order dated 22.08.2016 held that the applicant is entitled refund of the amount deposited by them with the Authority. Just because of pendency of the matter i.e. of G4S Securities (India) Ltd. (supra) before the Apex Court, the applicant cannot be denied permission to withdraw the said amount. At the same time, the applicant will have to file an undertaking before this court that as and when Court directs them to bring back the said amount along with interest, they will do so.

7. Considering these facts, following order is passed:

a. The applicant is permitted to withdraw the amount of Rs.13,22,571/- with accrued interest, if any, deposited by the petitioner pursuant to the order dated 18.11.2016 in this court by filing an undertaking before this court that as and when Court directs them to bring back the said amount along with interest, they will do so.

b. Civil application stands disposed off accordingly.

JUDGE