

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPL No. 241 of 2018**

M/s Itarasi Security Services Through Its Manager Sanjay Bishwal,
Shop No. 61, Near Pani Tanki, Idgah Chowk, Farid Nagar, Bhilai,
District Durg, Chhattisgarh.

---- Petitioner**Versus**

1. Union Of India Through Secretary, Ministry Of Labour And Employment, Shram Shakti Bhawan, New Delhi.
2. Asst. Provident Fund Commissioner O/o Employees Provident, Fund Orgn, Regional Off, D- Block Scheme No. 32, Indra Gandhi Commercial Complex, Pandri, District Raipur, Chhattisgarh. 492004.

----Respondents

For Petitioner	:	Mr. N.K. Vyas, Advocate
For Respondent	:	Mr. Sunil Pillai, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****11/12/2018**

1. The challenge in the present writ petition is to the order dated 29.11.2018, as also the order of the same date (Annexure P/1 & P/2).
2. Vide the impugned order, the respondents have initiated a show cause proceedings against the petitioner for non-compliance of its earlier order dated 19.01.2018, an order passed under 14B proceedings. Pursuant to which the order has been passed by the recovery officer under Section 8F as also coercive measures have been taken by issuance of notice under Section 8B seeking the explanation from the petitioner as to why they should not be arrested for non-compliance of the order dated 19.01.2018.
3. At the outset, the counsel for the petitioner submits that against the order dated 19.01.2018 the petitioner has already preferred an appeal under Section 7I of the EPF Act, 1952 before the Appellate Tribunal i.e.

the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur on 26.10.2018, but for the reason that the said tribunal is lying vacant as there has been no presiding officer for quite sometimes, the appeal and the application for grant of interim relief, both could not be taken up for hearing. Meanwhile, the respondents have now issued Annexure P/1 and P/2 for execution of their earlier order.

4. Counsel for the petitioner submits that the principal amount assessed by the provident fund authority under Section 7A has already been deposited and the dispute now remains only, so far as the penalty and interest for the delayed payment that has occurred. He submits that since the principal amount has already been deposited, let the proceedings of the GPF authority be kept in abeyance, till the appeal of the petitioner is taken up by the Appellate authority, particularly on the issue of grant of interim protection.
5. The counsel appearing for the provident fund department opposing the petition submits that from the pleadings itself it reflects that petitioner has filed an appeal at a belated stage, and therefore the petitioner do not call for an interim protection at this juncture. He further submits that it is a case where the original order was passed as early as on 19.01.2018 and it took more than 10 months for the petitioner to prefer an appeal. Thus, the petitioner is not entitled for any sympathetic consideration at this juncture.
6. Having heard the contentions put forth on either side and on perusal of record, what is prima facie visible from the proceedings is that vide order dated 19.01.2018 an assessment under Section 14B was made to the tune of Rs.3,21,325/- with interest under Section 7Q amounting to Rs.2,59,085/- totaling an amount of Rs.5,80,410/-. It reveals that the

proceedings under Section 14B was initiated on account of the non-compliance of the order passed under Section 7A dated 05.07.2016, where under Section 7A, the EPF authority has assessed an amount of Rs.3,12,237/- against the petitioner. This amount of Rs.3,12,237/- has already been deposited by the petitioner with the EPF authority and hence the only dispute is in respect of quantum of penalty and interest that has been assessed vide order dated 19.01.2018.

7. Perusal of the record would show that though at a belated stage, but the petitioner has exercised their right to appeal while preferring an appeal before the Appellate Tribunal. However, since there is no presiding officer in the said tribunal as of now, the appeal could not be heard and on its merits, or on the application for interim relief and thus the petitioner has been forced to approach this Court invoking its writ jurisdiction.
8. Considering the fact that the principal amount has already been deposited by the petitioner and the issue left is only in respect of penalty and interest part, this Court is of the opinion that ends of justice would serve if the respondents are restrained from initiating any coercive step against the petitioner, till the interim application on the appeal, which the petitioner has preferred, is taken up for hearing before the tribunal, after the presiding officer is duly appointed.
9. With the aforesaid observations, the writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge