

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8650 OF 2018
WITH
WRIT PETITION NO.8718 OF 2018

THE GENERAL MANAGER TELECOM, BHARAT SANCHAR NIGAM LTD.
VERSUS
REGIONAL PROVIDENT FUND COMMISSIONER REGIONAL OFFICE
AURANGABAD

...
Advocate for the Petitioner : Shri Arora Shyam C.
Advocate for the Respondent : Shri Chaudhari Nitin K..
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 06th September, 2018

Per Court:

1 I have heard the learned Advocates for the respective sides and considering the order that I intend to pass by the consent of the parties in the second writ petition, the first Writ Petition No.8650/2018, which merely challenges the recovery order dated 13.06.2018 prescribing the mode of recovery under Section 8-F of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, can be disposed of and the said Writ Petition is, accordingly, disposed of.

2 Insofar as the second Writ Petition No.8718/2018 is concerned, the learned Advocate for the Petitioner/ Establishment contends and rightly so, that an appeal before the Provident Fund

Appellate Tribunal for challenging the order under Section 7-Q of the said Act, is not permissible. However, on instructions from the officer present in the Court, the learned Advocate submits that the Petitioner is agreeable to deposit the total amount of Rs.10,58,228/- with the Respondent Authorities at Aurangabad.

3 It is submitted that the order under Section 7-Q has been passed without hearing the Petitioner and the Petitioner Establishment has taken a specific stand that all the amounts due to be paid as provident fund contributions/ subscriptions, have been paid. However, delay caused in such payment cannot be ruled out and if an opportunity of hearing in the proceedings under Section 7-Q is granted by the Respondent Authorities to this Petitioner, the interest/ penalty on the delayed payment can be reconsidered and a fresh order can be passed.

4 The learned Advocate for the Respondent/ EPF Authorities submits, on instructions, that subject to depositing of the above stated amount, the Respondent Authorities would have no hesitation to hear the Petitioner, peruse the records produced, reconcile the accounts and pass a fresh order, in view of the grievance voiced by the Petitioner/ Establishment with regard to the order under Section 7-Q dated 27.06.2017 (passed with reference to the period covered thereunder).

5 The learned Advocate for the Petitioner/ Establishment graciously submits that anticipating that this Court may direct the

depositing of amount, the Petitioner has moved with great promptitude and has prepared the Demand Draft of the said amount in the name of the Registrar, High Court of Bombay, Bench at Aurangabad. I find this conduct of the Petitioner to be quite appreciable.

6 Considering the above and the statements made by the litigating sides as recorded above, the second Writ Petition No.8718/2018 is also disposed of with the following directions :-

- (a) The Petitioner shall deposit the said Demand Draft of Rs.10,58,228/- in this Court on or before 21.09.2018.
- (b) After depositing the said demand draft, the Respondent/ EPF Authorities are permitted to withdraw the said amount forthwith through an authorized representative with a proper authorization and accompanying identity proof, under the identification of an Advocate.
- (c) The said amount shall be deposited in the account of the Petitioner in relation to the purported recovery period 04/1996 to 03/2014.
- (d) The Petitioner through their authorized officer or a legal representative shall appear before the Respondent/ EPF Authorities on 28.09.2018 at 11:00 am and they would deposit necessary documents or material on which they are relying, within a period of thirty days thereafter.

- (e) The Respondent/ EPF Authorities are at liberty to cause a proper enquiry in the matter restricted to the period as mentioned above and after hearing the Petitioner upon giving a reasonable opportunity, would pass a reasoned order considering all contentions of the Petitioner and the material placed on record.
- (f) Needless to state, the Petitioner is also at liberty to enter written notes of submissions listing out the points for consideration.
- (g) After passing an order under Section 7-Q subject to the above, if it is noticed that any excess amount is deposited by the Petitioner, the said amount shall be returned to the Petitioner within two weeks from the passing of the order under Section 7-Q.

7 The Petitioner has raised another issue in this petition. The Petitioner is depositing the provident fund contributions of all employees in the State of Maharashtra at the Mumbai EPF office. The Petitioner prays that provident fund accounts of all employees working in the Aurangabad region be transferred from the Regional Office at Aurangabad to the office at Mumbai.

8 As such, liberty to raise this issue independently with the

concerned office of the Respondent is granted and the concerned office of the Respondent, competent to take a decision on this request, shall consider the said request expeditiously and shall pass necessary orders for transferring the EPF accounts from the Regional Office at Aurangabad (pertaining to those workers of the Petitioner, who are covered by the Regional Office at Aurangabad) to the Provident Fund office at Mumbai, within a period of twelve weeks from today.

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(RAVINDRA V. GHUGE, J.)

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Prakash
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