

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.2915 OF 2018

ORDER:

Heard Sri Koka Satyanarayana Rao, learned counsel for the petitioner, Sri B.Jithender, learned Standing Counsel appearing for respondent No.1, and Sri B.Narasimha Sharma, learned Standing Counsel appearing for respondent No.2.

2. In the present writ petition, challenge is to the orders, dated 26.12.2017, passed by the Regional Provident Fund Commissioner, Visakhapatnam, respondent No.2 herein, *vide* proceedings No.GR/VSP/1206361/P.D/Zone – 52/2017/5080 under Section 14-B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short, "the Act") and the proceedings No.GR/VSP/1206361/P.D/Zone – 52/2017/5156 under Section 7Q of the Act. By way of the orders under challenge, respondent No.2 herein imposed damages of Rs.4,63,658/- and interest of Rs.6,86,151/- on the petitioner herein.

3. According to the learned counsel for the petitioner, the orders impugned are highly illegal, arbitrary and opposed to the very spirit and object of the Act and without jurisdiction. In elaboration, it is further submitted by the learned counsel that respondent No.2 herein failed to take note of the issue that the outsource work performers are not the employees of the petitioner Corporation and as such, respondent No.2 has no authority or jurisdiction to invoke Sections 14-B and 7Q of the Act against the petitioner Corporation.

4. On the other hand, it is the submission of Sri B.Narasimha Sharma, learned Standing Counsel, appearing for respondent No.2, that Section 7-I of the Act provides for alternative remedy of appeal to the Tribunal (Central) and the petitioner herein needs to avail the said alternative remedy and all the points raised in the writ petition can be agitated before the appellate Tribunal under Section 7-I of the Act.

5. Having regard to the submissions made by the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents, and keeping in view the provisions of Section 7-I of the Act, this Court deems it appropriate to dispose of the present writ petition by keeping it open for the petitioner herein to file an appeal before the appellate Tribunal under Section 7-I of the Act within a period of six (6) weeks from the date of receipt of a copy of this order subject to the petitioner depositing 50% of the amount covered by the impugned orders before respondent No.2 within a period of four (4) weeks from the date of receipt of a copy of this order. It is also made clear that if any such appeal is filed by the petitioner herein, the same be considered and appropriate orders be passed strictly in accordance with law. It is also made clear that no coercive action pursuant to the impugned orders shall be taken pending consideration of the appeal if the amount, as directed above, is paid by the petitioner herein within the time stipulated above.

6. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

7. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE A.V.SESHA SAI

Date : 01.02.2018
AMD



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