

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.40755 of 2018

ORDER:

Heard learned counsel for the petitioner and Sri Y.Ravindra, learned Standing Counsel appearing for the respondents, apart from perusing the entire material available on record.

The order, dated 04.01.2017, passed by the Employees Provident Fund Appellate Tribunal, Bangaluru-first respondent herein, in Appeal No.A/AP/-08/2016, is under challenge in the present Writ Petition.

Petitioner herein filed an appeal before the first respondent, under Section 7-I of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for brevity, 'the Act'), challenging the notice, bearing No.AP/RJY/Circle: E/Damages/AP/28922/CA/1095, dated 12.03.2014, issued by the Assistant Provident Fund Commissioner-second respondent herein. When the appeal was pending, the Appellate Tribunal, on 08.08.2016, directed the appellant-petitioner herein to file a copy of the order, passed under Section 14-B of the Act, and adjourned the matter and when the matter was called on 04.01.2017, there was no representation on behalf of the appellant-petitioner herein, which compelled the appellate authority to pass the impugned order on 04.01.2017 on the ground that the same being not maintainable in the absence of filing of any order passed by the primary authority.

When the matter was called before this Court, on the previous occasion, it was submitted by the learned counsel for the petitioner that, pursuant to the orders of the primary authority, petitioner herein paid all the amounts due and for the non-appearance of the learned counsel for the appellant-petitioner herein before the first appellate authority, petitioner herein cannot be penalised that too having regard to the payments already made by the petitioner herein, pursuant to the orders of the primary authority. It is further requested by the learned counsel that the petitioner herein may be permitted to move the appellate authority and a copy of the order, passed by the primary authority, will be filed now before the first respondent-appellate authority.

Having regard to the nature of controversy and having regard to the submissions made by the learned counsel, especially in view of the fact that the petitioner herein already paid the amounts, pursuant to the orders of the primary authority, this Court deems it appropriate to allow the Writ Petition, by setting aside the order, passed by the first respondent-appellate authority.

Accordingly, Writ Petition is allowed, setting aside the order, dated 04.01.2017, in Appeal No.A/AP/-08/2016, passed by the first respondent, and the appeal, filed by the petitioner herein, stands restored to file with a direction to the petitioner herein to file a copy of the orders, passed by the primary authority, within a period of one month from the date of receipt

of a copy of this order, and, if any such order is filed before the first respondent, the same be considered and appropriate orders be passed, strictly in accordance with law, as expeditiously as possible. There shall be no order as to costs.

Miscellaneous petitions, if any, shall stand closed.

10th December, 2018
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A.V. SETHA SAI, J

