

HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.10465 of 2019

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking the following relief:

“For the reasons stated in the accompanying affidavit the Petitioner herein prays that this Hon’ble Court may be pleased to issue an Order, direction or a Writ or more particularly one in the nature of Writ of Mandamus declaring that the order passed by the 2nd Respondent in UR SR No. 68 of 2018, dated 26.04.2019 as violative of principles of natural justice, erroneous and violative of article 14 of the constitution of India consequently declare that the order in TS/HYD/29170/Circle-IV/(PD)/Z-2/2018/2864, dated: 31.07.2018 passed by the 1st Respondent as arbitrary, illegal and unenforceable in law and pass such further or other orders deems fit in the interest of justice.”

2. The grievance of the petitioner is that the impugned order, dated 26.04.2019, in UR.SR.No.68 of 2018, passed by the 2nd respondent holding that the appeal filed by the petitioner under Section 7-I of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short, ‘the Act’) is not maintainable, since the petitioner has challenged the order, dated 31.07.2018, passed under Section 14B of the Act.

3. Heard Sri Koka Satyanarayana Rao, learned counsel for the petitioner and Ms.Anjali Agarwal, learned Standing Counsel appearing for respondent No.2 & B.Narsimha Sharma counsel for R-1.

4. Learned counsel for the petitioner submits that when the order, dated 31.07.2018, was passed under Section 14B of the Act, then the appeal lies under Section 7-I of the Act.

5. A perusal of the order impugned before the 2nd respondent clearly goes to show that the order, dated 31.07.2018, was passed under Section 14B of the Act. In fact, in the earlier order, dated 07.03.2019, passed by the Central Industrial Tribunal in I.A.No.3 of 2019 in UR.SR.No.68 of 2018, it is stated that the impugned order is passed under Section 14B of the Act, which clearly goes to show that the 2nd respondent-Central Government Industrial Tribunal has not applied its mind before passing the impugned order. As such, when once an order is passed under Section 14B of the Act, then the appeal lies under Section 7-I of the Act.

6. In view of the same, the Writ Petition is allowed by setting aside the impugned order, dated 26.04.2019, passed by the 2nd respondent in UR.SR.No.68 of 2018 and the 2nd respondent is directed to consider and dispose of the appeal on merits, in accordance with law, after issuing notice to the petitioner. Till disposal of the appeal, the petitioner is permitted to operate his bank account. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

A. RAJASHEKER REDDY

22nd May, 2019.
KL/mar