HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.10021 of 2005

ORDER:

Heard Sri Y.Ravindra, learned counsel for the petitioners and Smt B.Kavita Yadav, learned Standing counsel for respondents.

This writ petition is filed seeking the following relief :-

> "………writ of mandamus, declaring the proceedings/order of the Assistant Provident Fund Commissioner, Visakhapatnam, the 1st respondent herein, No.AP/VP/PD Cell/CC.56/AP/41412/2004/3889, dated:15/17-03-2005 directing the 2nd petitioner to pay the amount of Rs.92,591/- with interest into the respective accounts maintained at the State Bank of India within 15 days of receipt of the order, as illegal and void and consequently direct the 1st respondent herein not to collect any amount under the Employees Provident Funds and Miscellaneous Provisions Act, 1952 and pass such other order…………."

It has been contended by the petitioner that Bharat Sanchar Nigam Limited (for short 'BSNL') was brought under the purview of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (for short 'the Act') w.e.f. 01.10.2000 and the petitioners have paid the entire due amount on 31.03.2004, as determined by the authorities and as such no amount is payable to the respondents and inspite of the same, the respondents have issued proceedings dated 15/17-03-2005 directing the petitioners to pay an amount of Rs.92,591/-. Therefore, the petitioners contend that impugned proceedings dated 15/17-3-2005 issued by the 1st respondent are liable to be set aside.

Learned counsel for the petitioners contends that appropriate orders be passed in the writ petition by setting aside the impugned proceedings dated 15/17-03-2005 holding that the petitioners are not liable to pay the amount as determined by the 1st respondent in the above said proceedings.

Learned Standing counsel appearing for the respondents contends that BSNL has come within the purview of the Act, w.e.f. 01.10.2000. The petitioners have submitted their returns for the years 2001-02, 2002-03 and 2003-04 to the EPF authorities. It is contended that though the petitioners have paid contribution as assessed by the respondents, they paid the same belatedly, therefore, the respondents have rightly issued notice to the petitioners to pay an amount of Rs.92,591/-within 15 days. However, instead of paying the said amount, the petitioners have filed the present writ petition and obtained interim suspension of the impugned proceedings. As per Section 7-Q read with Section 14-B of the Act, the interest and penalty are levied on the petitioners for the belated payment made by them. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions made by the learned counsel appearing for the respective parties, is of the considered view that though the petitioners' organisation has come within the purview of the Act w.e.f. 01.10.2000, petitioners have not paid the contribution from the date of inception and they have paid the amount belatedly on 31.03.2004. There is a right of appeal against the orders passed by the 1st respondent and without exhausting the said remedy of appeal, the petitioners have straight away approached this Court. Therefore, the petitioners are at liberty to prefer an appeal under the Act bringing all the issues to the notice of the appellate authority including that they have paid the amount as determined by the authorities on 31.03.2004 and the appellate authority shall entertain the appeal without raising any objection with regard to limitation and pass appropriate orders on the merits of the case.

With the above observations, the writ petition is disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 09-09-2019
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