

24
11.03.2020
Court No.2
DC

CIRCUIT BENCH OF
CALCUTTA HIGH COURT
AT JALPAIGURI
APPELLATE SIDE

W.P.A. 276 of 2020

Regional Provident Fund Commissioner
Vs.
The Registrar, Central Government Industrial
Tribunal, Kolkata & Anr.

Mr. Bhaskar Roy Mahashaya.....for petitioner

Mr. Kunaljit Bhattacharjee...for respondent No. 2

This is the 3rd round of litigation between the petitioner and the respondent No. 2. The petitioner being the Regional Provident Fund Commissioner proceeded with under Section 14 B of the Employees Provident Fund & Miscellaneous Provision Act, 1952 (hereinafter referred to as the said Act) and assessed a damage of Rs. 51,61,015/- in respect of respondent No. 2

This order was challenged by the respondent No. 2 by filing a writ petition being W.P. 8527 (W) of 2015 wherein by an order dated 31st July, 2018 the order of assessment impugned in the said writ petition was set aside. The petitioner reassessed the damages. The order of reassessment was challenged before the

Central Government Industrial Tribunal, Kolkata by the respondent No. 2. The assessment of damages challenged before the Central Government Industrial Tribunal was exactly the same figure which was assessed and had been set aside by this Court vide an order dated 31st July 2018. The Tribunal has come to the conclusion that the order of reassessment is not according to the statutory provision and in violation of principles of natural justice and therefore, set aside the order dated 21st May, 2019 passed by the Regional Provident Fund Commissioner, Regional Office, Siliguri, West Bengal by an order dated 2nd August 2019.

The order of the Central Government Industrial Tribunal passed in appeal No. EPF 13 of 2019 filed by the respondent No. 2 is the subject matter of challenge in this writ petition.

Considering the chequered history of the matter, and particularly the fact that the Hon'ble Supreme Court has deprecated filing of successive writ petitions till the goal of the aggrieved is achieved, I direct that the respondent No. 2 to secure the Said sum of Rs. 51,61.015/- by a Bank guarantee given in favour of the Registrar of the Circuit Bench of Calcutta High Court at Jalpaiguri. The terms of the Bank guarantee shall be settled by the said Registrar and such guarantee has to be given by 30th March, 2020 and

shall be kept renewed from time to time till the fresh assessment is done under Section 14B of the said Act.

Upon the money being secured, the Assessing Authority being the Regional Provident Fund Commissioner-I Regional Office, Siliguri, West Bengal shall reassess the damages afresh upon giving personal hearing to the respondent No. 2 and by passing a reasoned order.

The entire exercise of hearing and passing the reasoned order after giving due and proper hearing to the respondent No. 2 shall be done within a period of three months from the date of putting in the security.

In the event of default in putting in the security, the unconditional stay of the order dated 02-08-2019 upto 30-03-2020 shall be discharged and the matter be placed before the Circuit Bench on 20th April, 2020 subject to its convenience for passing of necessary orders.

The respondent No. 2 shall render all cooperation before the Regional Provident Fund Commissioner-I during the hearing under Section 14 (B) of the Employees Provident Fund & Miscellaneous Provision Act, 1952.

It is also made clear that direction for securing the said sum of Rs. 51,61.015/- shall not be construed to be any assessment of damages on the part of the

petitioner or an admission of liability on the part of the respondent No. 2.

I have not gone into the merits of the case and the petitioner shall proceed afresh without being influenced by any observation made herein for reassessing the damages under Section 14B of the 1952 Act.

In the event, the amount is secured by 30-03-2020, this application shall stand disposed of.

(Arindam Mukherjee, J.)