

**FMA 620 of 2021
with
IA No: CAN 1 of 2021
with
CAN 2 of 2021**

**M/s. SKG Pulp and Paper Mills Private
Limited & Anr.
vs.
Assistant Provident Fund Commissioner
(Compliance) Sub-Regional Office & Ors.**

(Via Video Conference)

Mr. Bikash Ranjan Bhattacharya
Mr. Soumya Majumder
.....for the Appellants

Mr. Anil Kumar Gupta

.....for the Respondents/
P.F. Authority

Party/Parties is/are represented in the order of
their name/names as printed above in the cause title.

Under the challenge in this appeal is the judgment and order of the Hon'ble Single Bench dated 23 February, 2021 in WPA 33775(W) of 2013. In the writ petition the petitioners, who are appellants herein, assailed the orders dated 28th May, 2013 and 31st July, 2013 raising a demand on the petitioners under Sections 7A and 7B of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (for short the 1952 Act).

The appellants/writ petitioners before the Hon'ble Single Bench, are today represented by Mr. Bikash Ranjan Bhattacharya, learned Senior Counsel with Mr. Soumya Majumder, learned Counsel. The appellants primarily raise the point of denial of natural justice by the Provident Fund Authority (for short PFA) while raising the demand against them. The appellants submit that during the pendency of the 7A and 7B proceedings the PFA relied on a voluminous report which was not supplied to the appellants.

Therefore, the point is taken that in the absence of being able to meet the contents of the voluminous report, the imposition of a demand on the appellants is arbitrary.

Per contra, Mr. Gupta, learned Counsel, takes this Court to the judgment and order of the Hon'ble Single Bench and submits that the judgment is well-reasoned. It is pointed out that the Hon'ble Single Bench has noticed that the appellants/the writ petitioners did not take the point of non-supply of the voluminous report at any stage of the proceedings before the PFA. No appeal was filed under the 1952 Act. Only an application for review was filed by the appellants and such review was dismissed. In the writ petition the point of non-supply of documents was not pleaded.

It is also submitted that the appellants were given all calculation sheets and the material necessary to contest the proceedings. It is pointed out that the demand under Sections 7A and 7B was of the year of 2013 and, 8 years down the line today from that date of determination of dues including interest under Section 7Q aggregating in 2013 to around Rs. 45 lakhs, the appellants have only deposited Rs. 15 lakhs, that too under order of Court.

Having heard the parties and considering the limited arguments on natural justice, this Court finds that the judgment and order of the Hon'ble Single Bench has exhaustively discussed every aspect of the issue raised by the appellants. The law has been observed that in the present factual matrix an appropriate opportunity was afforded to the appellants to meet the demand under Sections 7A and 7B.

This Court reiterates the well recognised legal principle that natural justice is not a straight jacket formula. The appellants had an opportunity to ventilate their grievance in the statutory appeal and, this Court has no reason to not notice the observation of the Hon'ble Single Bench that such appeal would have entailed deposit of 75% of the demanded amount.

This Court, therefore, finds that no useful purpose would be now served in keeping the appeal and its connected application pending since the arguments on the judgment and order impugned of the Hon'ble Single Bench have turned purely on an issue of law relating to natural justice.

Before parting with this discussion it requires to be stated that this Court is not oblivious to the point of denial of natural justice agitated on behalf of the appellants but such ground is not available to them as a matter of course and denial of natural justice needs to be examined on the anvil of doctrine of prejudice. Here, in the instant appeal, appellants have failed to demonstrate as to how they were prejudiced due to non-supply of said report in the year 2013 keeping in view of the fact that no contemporaneous challenge was thrown on this point save and except raising this view as an afterthought in the supplementary affidavit filed long after filing of the writ petition.

This Court thus finds no reason to intervene in the findings of the Hon'ble Single Bench.

Accordingly the appeal being **FMA 620 of 2021** and the applications being **IA No. CAN 1 of 2021** and **CAN 2 of 2021** stand **dismissed**.

Parties to act on a server copy of this order
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(Saugata Bhattacharyya, J.) (Subrata Talukdar, J)