

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11871 of 2019

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Bihar State Hydro Electric Power Corporation Through its Managing
Director, Sone Bhawan 2nd Floor, Birchand Patel Marg, Patna -1, Bihar.

... .. Petitioner/s

Versus

1. The Union of India The Union of India.
2. The Secretary Ministry of Labour, Govt. of India, New Delhi.
3. The Employees Provident Fund Commissioner Employees' Provident Fund Organization, (Ministry of Labour, Govt. of India) 14, Bhikaji Cama Place, New Delhi - 110066.
4. Regional Provident Fund Commissioner Employees' Provident Fund Organization, (Ministry of Labour, Govt. of India), Regional Office, Bhavisyanidhi Bhawan, R. Block, Road no. 6, Patna- 800001.
5. Assistant Provident Fund Commissioner Regional Office, R. Block, Road No. 6, Patna (Bihar).
6. Assistant Provident Fund Commissioner (Compliance) Employees' Provident Fund Organization, (Ministry of Labour, Govt. of India), Regional Office, R. Block, Road no. 6, Patna (Bihar).
7. Enforcement Office and Inspector Employees' Provident Fund Organization, (Ministry of Labour, Govt. of India), Bhavisyanidhi Bhawan, R. Block, Road no. 6, Patna (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bishwa Bibhuti Kumar Singh, Advocate
For the Respondent/s	:	Mr. S. D. Shanjay, AD SG
For Respondent No. 3 to 7 :		Mr. Rajiv Kumar Verma, Sr. Advocate
		Mr. Prashant Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 14-10-2022

The matter is taken up through virtual mode.

2. In the instant petition, petitioner has prayed for the
following relief/reliefs:

“(a) To quash or set aside the Ex Party
order contained in Letter No.551, dated 10.5.2019
passed by Assistant Provident Fund Commissioner,



Patna in a 7 A proceeding under EPF & MP Act, 1952 (herein after the Act.)

(b) To restrain the respondents to not take any co-ercive action against the petitioner for recovery of any amount demanded through order contained in Letter No. 551, dated 10.5.2019.

(b) To command the Respondents to issue summon to the contractors and seek necessary information from them regarding payment of provident fund due to their employees.

(c) To hold that the impugned orders as contained in Annexure- A/31 is illegal, arbitrary, unreasonable and without any lawful justification.

(d) To pass any other order/orders which may deem fit and just in the facts and circumstances of the case.”

3. Petitioner, without exhausting statutory remedy of appeal before Central Government Industrial Tribunal has rushed to this Court. Apex Court in the case of ***State of Jammu and Kashmir V/s. R.K.Zalpur and others*** reported in AIR 2016 SC 3006, Paragraph-20 held as under:

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation V/s.Dosu Aardeshir Bhiwandiwalla and others {(2009) 1 SCC 168}, wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus:-

“The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

(a) Adjudication of writ petition involves any complex and disputed question of facts and whether they can be satisfactorily resolved;



- (b) The petition reveals all material facts;
- (c) The petitioner has any alternative or effective remedy for the resolution of the dispute;
- (d) Person invoking the jurisdiction is guilty of unexplained delay and laches;
- (e) Ex facie barred by any laws of limitation;
- (f) Grant of relief is against public policy or barred by any valid law; and host of other factors”

4. In the light of these facts and circumstances, the present petition stands disposed off reserving liberty to the petitioner to invoke remedy before the Central Government Industrial Tribunal. If there is any delay in filing appeal/application before the Central Government Industrial Tribunal, in that event Central Government Industrial Tribunal is hereby directed to take note of time spent in the present petition in the light of Section 14 of the Limitation Act and proceed to decide grievance of the petitioner.

5. With the above observation, writ petition stands disposed off.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

