IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10921 of 2022

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Central Board of Trustees Employees Provident Fund Organization through the Regional Provident Fund Commissioner-II (Legal), Regional Office, Patna having his office at R. Block, Road No. 6, P.S.- Sachivalaya, District- Patna.

... ... Petitioner/s

Versus

M/s. Urmila Info Solutions 31/A, 1st Floor, Banke Bihari Sadan, S.K. Puri, Bording Road, P.S.- S.K. Puri, District- Patna through its authorized representative Jai Krishan Singh.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prashant Sinha, Advocate
For the Respondent/s : Mr. Deo Prakash Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

ORAL JUDGMENT

Date : 30-11-2022

Heard learned counsels for the respective parties.

In the instant petition, petitioner has prayed for the following reliefs:-

> *"(i) For issuance of writ in the nature of certiorari for quashing of the order dated 01.07.2022 passed by the learned Central Government Industrial Tribunal-2, Dhanbad (hereinafter to be referred as CGIT only) in IT No. 2/9/2022 whereby the learned Tribunal while remanding the matter back to the authority concerned, i.e. Rs. 1,02,18,489/- within seven days. The learned Tribunal has also specified that out of the 60%, the 50% is the part of the recovered amount whereas 10% is the interest part fro the loss suffered to the appellant.*
>
> *(ii) For holding that the CGIT had jurisdiction to hear appeal against an order passed under Section 7Q of the EPF & MP Act and much less to direct for refund of the*

amount of the interest calculated under section 7Q and recovered.

(iii) For staying the operation of the order dated 01.07.2022 passed by the CGIT-2, Dhanbad in IT No. 2/9/2022 during the pendency of this application.

(iv) For any other order, which your Lordship may deem fit and proper in the facts and circumstances of the case."

Petitioner feeling aggrieved by the order dated 01.07.2022 passed by the Central Government Industrial Tribunal-2, Dhanbad (hereinafter referred to as 'CGIT') in IT No. 2/9/2022 presented this petition. The appellate authority passed order in favour of respondent-M/s Urmila Info Solutions, Patna and remanded the matter.

Learned counsel for the petitioner vehemently submitted that CGIT has committed error in not considering the petitioner's version namely written statement dated 19.04.2022. Even though impugned order is dated 01.07.2022 and the written statement filed on behalf of the petitioner is dated 19.04.2022 and this material is available on record whereas Tribunal proceeded to record in Para 9 as if written statement is not filed. The petitioner contention have not been analyzed while passing order by the CGIT on 01.07.2022 hence it is liable to be set aside.

Per contra, learned counsel for the respondent resisted the aforesaid contention and submitted that impugned order dated

01.07.2022 passed in 14B and 7Q of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 is nothing but a common order. Common order cannot be passed. It is further submitted that there is no infirmity in the order of the CGIT.

Each and every contention of the petitioner as well as respondent has been taken note of by the Tribunal hence no interference is called for.

Heard learned counsels for the respective parties.

Petitioner-EPF authorities proceeded against respondent-M/s Urmila Info Solutions, Patna under Section 14B and 7Q of the Act, 1952. Both the proceedings decided by common authority on the same date namely 09.12.2021. Perusal of Annexure-2A and 2B it is crystal clear that order has been passed by the EPF authorities under Section 14 B and 7Q of the Act. Perusal of Section 7A read with Section 7Q of the Act there is no appeal against the proceedings against Section 7Q the Tribunal should not have entertained appeal against 7 Q proceedings. It is further noticed that petitioner filed written statement. The same has not been appreciated by the Tribunal while passing order on 01.07.2022. In para 9 it is stated as under:-

> *"Sri Rahul Kumar, Ld. Advocate of the respondent submits that he is yet to receive the comments/reply of the respondent as pleaded by the appellant*

> *and recorded in the order of the Tribunal dated 10/06/2022. He prayed for some more time to file reply on behalf of the respondent."*

Petitioner's contention have not been taken note of and decided. In other words, only the statement/contention urged by the respondent-M/s Urmila Info Solutions has been taken note of by the CGIT while deciding appeal on 01.07.2022.

In the light of these facts and circumstances, order of the CGIT, dated 01.07.2022 passed in I.T. No. 2/9/2022 is set aside and matter is remanded to the CGIT to decide the aforesaid proceedings afresh after due consideration of petitioner's written statement filed on 19.04.2022 and provide opportunity of hearing to both petitioner and respondent-M/s Urmila Info Solutions and proceed to pass orders in accordance with law. The above exercise shall be completed within a period of three months from the date of receipt of this order.

Accordingly, the present petition stands allowed.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A