

94. 16.06.2022
Ct.15
BD

W.P.A. 13834 of 2017
CAN 1 of 2019
(Old CAN 5144 of 2019)

Sri Chaitanya Bikash Paul
-vs-
Employees' Provident Fund Organisation
& Ors.

Mr. Ranjit Kumar Jaiswal
Mr. Mrinal Kanti Kundu
Mr. Nanda lal Pradhan
... for the Petitioner.

Mr. Rajib Roy
... for the EPFO

The matter is taken up for hearing in presence of the learned advocates representing the petitioner and the Employees' Provident Fund Organisation (for short "EPFO"). The learned advocates have filed their affidavits which are taken on record.

Subject matter of challenge in this writ petition is a letter dated 3rd March, 2017 issued by Regional Provident Fund Commissioner-I, Odisha, whereby the Provident Fund Authority permitted the petitioner to refund sum of Rs. 1,57,410/- in instalments of Rs. 5,000/- per month to be deducted from the pension and arrear pay and allowances which would be paid to the petitioner in terms of 7th Central Pay Commission.

The learned advocate representing the petitioner has submitted that the petitioner was an Assistant Provident Fund Commissioner who retired on 30th September, 2005. After

superannuation of the petitioner in connection with over payment made to one Sh. A. K. Gurung, Ex-P.F. member Overpayment Review Committee fixed responsibilities on four officials and according to the said committee due to negligence and carelessness on the part of those four officials such over payment to the tune of Rs. 5,24,700/- was made to said Sh.A.K.Gurung. It is submitted that the letter dated 3rd March, 2017 issued on behalf of the EPFO is untenable since said recovery after superannuation is impermissible. Petitioner has prayed for cancellation of this letter dated 3rd March, 2017, pages 69 to 70 of the writ petition.

Mr. Rajib Roy, learned advocate, appears on behalf of the EPFO and has defended the stand taken as it emanates from the said letter dated 3rd March, 2017 issued by the Regional Provident Fund Commissioner-I, Odisha. It has further been submitted that after fixing responsibilities on four officials of EPFO by the Over payment Review Committee the same was approved by the Head Office at Delhi vide letter dated 10th April, 2008. Moreover, the concerned authority of EPFO issued letter dated 3rd March, 2017 based on the admission made by the petitioner therefore petitioner cannot turn around and question this letter dated 3rd March, 2017.

This Court has heard the learned advocates and considered the relevant materials available on record including pleadings exchanged by the parties.

It appears that Overpayment Review Committee took decision on 28th February, 2006 whereby four officials including the petitioner were asked to pay in view of excess payment made to one Sh. A.K. Gurung, upon fixing responsibilities on those four officials. It was decided by the said committee that the petitioner shall pay the sum of Rs. 1,57,410/-. Subsequently, petitioner wrote a letter on 4th August, 2016 addressed to the Assistant Provident Fund Commissioner whereby he admitted his mistake and accepted the demand which was made by the EPFO but requested the EPFO to extend the benefit of paying the said sum in equal instalments of Rs.5,000/- per month from the monthly pension and other benefits of the petitioner. On perusal of the letter dated 3rd March, 2017 it appears that the concerned authority of EPFO has acted on such admission made by the petitioner in his letter dated 4th August, 2016 and accordingly instructed the Branch Manager, State Bank of India, Madhyamgram Branch to recover overpaid amount @ Rs.5,000/- per month from the monthly pension and arrear pay and allowances arising out of 7th Central Pay Commission. Based on such instruction of concerned authority of EPFO the deduction @ Rs.5,000/- per month from the retirement benefits of the petitioner has commenced and it is going on.

However, the concerned authority of EPFO is restrained from deducting any amount from the pension of the petitioner towards the interest as it has been submitted on behalf of the petitioner by the learned advocate that amount is also being

recovered from the petitioner towards interest. Since the petitioner is retired officer of EPFO and during his tenure the decision could not be taken by the Overpayment Review Committee with regard to recovery of excess payment made to other person therefore it is improper on the part of the concerned authority of EPFO to demand interest from the petitioner who retired on 30th September, 2005. If any amount is deducted towards interest in the meantime same shall be adjusted against principal or to be refunded to the petitioner immediately and statement in this regard to be furnished to the petitioner within two weeks from date.

With the above direction the writ petition stands disposed of. However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)