

17.08.2022
rc/ct.no.10
Item No.104

WPA No. 12604 of 2022

Mr. Rajib Mukherjee
Ms. Supriya Dey Barat
Mr. S. Bhaduri ...for the Petitioner

Mr. Avijit Tewaryfor the respondent no.3

Affidavit of service filed in Court today is taken on record.

None appears on behalf of the 1st and 2nd respondents despite service.

It is submitted by the learned counsel appearing on behalf of the petitioner that the order under Section 7A of the Employees' Provident Fund and Miscellaneous Provision Act, 1952 (hereinafter referred to as "the said Act") passed on April 26, 2022 by the Regional Provident Fund Commissioner was carried in appeal by the petitioner before the Central Government Industrial Tribunal (in short, "the Tribunal") upon depositing 75% of the amount determined in the said order. As the Tribunal is not functioning at present, the appeal cannot be proceeded with. In the meantime a notice was issued by the Regional Provident Fund Commissioner upon the petitioner on May 23, 2022 demanding compliance of the order under Section 7A of the said Act. A reminder was also issued to that effect on June 13, 2022.

The petitioner prays for stay of both the notice and the reminder thereto till the matter is adjudicated by the appellate forum, i.e. the Tribunal.

It is submitted by the learned counsel appearing on behalf of the respondent no. 3 that the Tribunal may be directed to dispose of the appeal as expeditiously as possible.

In view of the above, this Court is inclined to hold that since the appeal pending before the Tribunal cannot be proceeded with as the Tribunal is not functioning at present, any coercive step taken by the Provident Fund Authority against the petitioner pursuant to the order impugned dated April 26, 2022 shall render the appeal infructuous, more so, as the appeal is pending before the Tribunal for no fault on the part of the petitioner.

Accordingly, notice dated May 23, 2022 and reminder thereto dated June 13, 2022 be stayed till disposal of the appeal pending before the Tribunal.

It is made clear that no coercive step be taken by the Provident Fund Authority against the petitioner till the disposal of the appeal.

With the above observations and directions this writ petition is disposed of.

There shall be, however, no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)