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22.02.2022
Ct. No.10
b.das

W.P.A. 18457 of 2021

(Via Video Conference)

Aniam Enterprises & Security
& Investigation Services & Anr.

Vs.

Assistant Provident Fund Commissioner & Anr.

Mr. Victor Chatterjee

Mr. B. Basak

...for the petitioners.

Mr. Rajib Ray

..for the P.F. Authorities.

Heard learned counsels for the parties.

Reports submitted by the respondents is taken on
record.

As recorded in the earlier order of this Court dated
14th December, 2021 the only issue for consideration in the
writ petition is whether the petitioners should be exempted
from paying the damages and interest in respect of the
difference of salary for the period from 1st October, 2008 to
31st March, 2010.

Drawing the attention of this Court to paragraph 8 of
the report, learned counsel for the respondents submits
that the contribution deposited with the authority is for
investment and interest is credited to the individual
account holder after receiving interest on the amount
invested by the authority in various securities/deposits.

Belated payment of provident fund amount causes loss of fund.

Such proposition remains undisputed. In the case in hand, upon a decision taken by the principal employer to pay arrear salary to the employees in tune with minimum wages, for the period from 1st October, 2008 to 31st March, 2010, such amount was received by the petitioners on 10th January, 2014 and proportionate provident fund thereon deposited on 14th June, 2014. The petitioners having received the amount only in January, 14, could not have deposited proportionate provident fund for the same prior to the said date.

Of course, there has been a delay of about six months in depositing the same which is admitted by the petitioners. In view of the said fact, the petitioners should be exempted from payment of damages and interest in respect of deposit of proportionate provident fund with regard to the difference of salary amounting to Rs.2,91,160/- for the period from 1st October, 2008 to 31st March, 2010.

Learned counsel for the petitioners, in all fairness, submits that the petitioners are agreeable to deposit the remaining damages and interest as demanded by the authority including that of the delay of six months in depositing the proportionate contribution in respect of fund received in January, 2014 except that of the period mentioned above with regard to difference of salary.

In view of the same, the order impugned dated 23rd September, 2021 which was subsequently revised on 1st November, 2021 is set aside/quashed. The matter is remanded back to the respondent authorities for fresh calculation of damages under Section 14B and interest under Section 7Q of the Act upon exempting the petitioners from payment of damages and interest with regard to the difference of salary from 1st October, 2008 to 31st March, 2010.

With the above observations and directions this writ petition being WPA 18457 of 2021 is disposed of.

However, there shall be 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 supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)