

**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

**W.P.Nos.31823 of 1998, 5048,19929, 19973,
19974 and 20396 of 1999**

COMMON ORDER: *(Per Hon'ble Sri Justice Abhinand Kumar Shavili)*

Since the issue involved in all these writ petitions is one and the same, they are being heard together and disposed of by way of this common order.

Heard Sri G.Venkateshwarlu, learned standing counsel for EPFO appearing for the petitioner, Sri B.G.Ravinder Reddy, Sri I.V.Radha Krishna Murthy, and Sri D.Ravi Shankar Rao, learned counsel appearing for the unofficial respondents i.e., 2nd respondent-companies in all the Writ Petitions.

For the sake of convenience, the facts in W.P.No.31823 of 1998 are hereunder discussed.

W.P.No.31823 of 1998 is filed seeking the following relief:

“...to issue writ, order or direction especially in the nature of writ of Certiorari calling for the records relating to the order dated 6.8.98 in ATA 1(5)/97 on the file of the 1st respondent herein and quash the same as illegal and unjust and (ii) pending disposal of the writ petition suspend the operation of the order dated 6.8.98 in ATA 1(5)/97 on the file of the 1st respondent herein or otherwise the petitioner’s Department and the employees of the 2nd respondent herein will be put to great hardship and irreparable loss.”

It is the case of the petitioner-Regional Provident Fund Commissioner that all the un-official respondents are Beedi manufacturers. While so, the Central Government has issued a notification on 17-05-1997 bringing the Beedi manufacturers under the Provident Fund Scheme. The un-official respondents and other Beedi manufacturers have challenged the said notification before the Apex Court. Initially, the Apex Court has stayed the notification issued by the Central Government and finally, the case was dismissed by the Apex Court *vide* order dated 25.08.1985.

Learned counsel appearing for the petitioner had contended that after dismissal of the case by the Apex Court upholding the notification issued by the Central Government, the Central Government and the un-official respondents have entered into a tripartite agreement. As per the agreement, the un-official respondents have paid employees' contributions. However, the un-official respondents have not paid damages for the delayed payment of contributions. Learned counsel had further contended that when the petitioner has issued order under Section 14(B) of EPF & MP Act, 1952 (for short 'the Act'), claiming damages from the un-official respondents, the un-official respondents have approached the Employees' Provident Fund Appellate Tribunal and the Tribunal has allowed the cases and waived damages from the un-official respondents.

Learned counsel appearing for the petitioner has relied upon the Judgment of the Apex Court in Civil Appeal

No.2136 of 2012, dated 23.02.2022 i.e., *Horticulture Experiment Station vs. The Regional Provident Fund Organization* and contended that the employee is bound to pay the damages whatever be the circumstances. Learned counsel had further contended that since the orders passed by the Appellate Tribunal are contrary to the law laid down by the Apex Court in *Horticulture Experiment Station vs. The Regional Provident Fund Organization*, appropriate orders be passed in these writ petitions by setting aside the orders passed by the 1st respondent-Tribunal.

Learned counsel appearing for the unofficial 2nd respondent had contended that the notification issued by the Central Government was the subject matter of a case before the Apex Court and the Apex Court, initially granted stay and finally dismissed the case *vide* order dated 25.09.1985. After dismissal of the case filed by the un-official respondents by the Apex Court, the respondents have paid

contributions to the employees. However, for no fault of the un-official respondents, the petitioner was claiming damages. As the Apex Court has stayed the notification and for the period when stay was operating, it was improper for the petitioner to claim damages and issued proceedings under Section 14(B) of the Act. The Appellate Tribunal has considered the entire case and after following the various judgments of High Court and Apex Court, has set aside the proceedings issued under Section 14(B) of the Act on the ground of limitation. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that the Tribunal has allowed the cases filed by the un-official respondents by following various judgments of the High Court and the Apex Court and set aside the proceedings initiated under Section 14(B) of the Act on the ground of

limitation. Further the judgment relied upon by the petitioner has no relevance and application in the present case because for the period from 1977 to 1985, the notification issued by the Central Government was suspended. When the notification was suspended, the petitioner was not justified in claiming damages. Admittedly, the un-official respondents have paid EPF contributions to the petitioner. Therefore, this Court is not inclined to interfere with the order passed by the Tribunal.

Accordingly, all the Writ Petitions are dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

JUSTICE NAMAVARAPU RAJESHWAR RAO

Date: 20.10.2022
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