**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CWP No.7564 of 2011 (O&M)
DATE OF DECISION : 6th APRIL, 2022

Jatinder Singh Saini through Smt. Satbir Kaur

…. Petitioner

Versus

Regional Provident Fund Commissioner, Punjab Region, Sector 17, Chandigarh & another

…. Respondents

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CWP No.3757 of 2016 (O&M)

Vivek Goel, through Sulakshna Goel

…. Petitioner

Versus

Employees' Provident Fund Organization, Su-Regional office, Jalandhar & another

…. Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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Present : Mr. Pritam Saini, Advocate for the petitioner.

Mr. Rajesh Hooda, Advocate for the respondents.

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RAJBIR SEHRAWAT, J. (Oral)

1. This order shall dispose of the above said two writ petitions because of similar aspect being involved in these petitions, i.e., the liability of the petitioner to pay the Employees Provident Fund contribution, as assed by the authorities and the consequences of the default of the same.

2. These are the petitions filed by the petitioner-Jatinder Singh Saini under Articles 226 & 227 of the Constitution of India seeking issuance of writ in the nature of certiorari for quashing the warrant of

detention in civil prison dated 16.03.2011, passed by respondent No.1 being perverse, illegal and contrary to the facts and law; along with certain other prayers, and petitioner-Vivek Goel has filed the petition praying for issuance of writ in the nature of certiorari for quashing the recovery certificate dated 13.02.2015 and Warrant of Arrest dated 09.02.2016.

3. For brevity of the facts the same are taken from CWP No.7564 of 2011.

4. The brief facts giving rise to the present petitions are that the authorities vide order dated 21.12.2000 had assessed an amount of ₹5,79,417/- as the principal amount and ₹2,78,120/- as interest under Section 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (in short, the EPF Act). Hence, as per the assessment order total amount payable as on 21.12.2000 was ₹8,57,537/-. The said amount has not been paid. Hence the detention warrant has been issued.

5. It is submitted by counsel for the petitioner that the petitioner has already paid an amount of ₹8,84,550/. Thereafter, during pendency of the present petition the petitioner has also deposited an amount of ₹50,000/- on 17.07.2015. Therefore, the petitioner has already met the liability under the assessment order. It is further submitted that the respondents have not even provided the list of the beneficiaries of the amount to be deposited by the petitioner despite being asked by this court vide order dated 24.03.2017. Therefore, it is clear that there is no

beneficiary who demanded the money from the respondents-department. Hence, the petitioner is not liable to deposit any more amounts. The petitioner already remained in civil imprisonment for non-payment of the dues for various periods from December 1996 to October 1999. The petitioner does not have any more property. Therefore, he is not in a position to pay any more amounts. Hence, no purpose would be served by execution of the impugned warrants and by putting the petitioner in jail.

6. On the other hand, the counsel for the respondents has submitted that the amounts demanded from the petitioner are the statutory amounts. The assessment order was passed only on the basis of the record available with the petitioner regarding the employment at the relevant time. The said order is not even under challenge anywhere. Hence, the order has attained finality. The subsequent proceedings; being undertaken by the respondents are only the statutory consequences. Hence the present petitions are not maintainable.

7. Having heard the learned counsel for the parties this court finds substance in the arguments of the counsel for the respondents. It is not even disputed that the petitioner had employed a number of employees at the relevant time. The petitioner was earlier depositing the EPF amounts as per law. However from December 1996 to October 1999 the petitioner stopped paying. Hence, the proceedings of assessment under Section 7-A of the EPF Act were initiated. In the said process the record of the employment of the employees with the

petitioner was verified and only thereafter the assessment order was passed against the petitioner. Hence, the argument that there are no beneficiaries of the amount, which is being demanded from the petitioner, is totally non-sustainable. The liabilities against the petitioner are statutory in nature. There cannot be any estoppel against the statute as such. Hence, mere fact that the petitioner claims to be not able to make the payments, cannot bring any benefit to the petitioner, as such. He would still be liable to face all the legal consequences, as prescribed under Section 8-B of the EPF Act and other consequences prescribed anywhere in any statutory provision. Needless to say that the assessment order has not been challenged by the petitioner, as such. Therefore, otherwise also, the aspects whether there is any beneficiary to claim the benefit or not and the fact what the respondents would be doing with the money which they are demanding from the petitioner, are totally irrelevant. The demand raised by respondents is only as per the statutory assessment order which has not been complied by the petitioner.

8. In view of the above, finding no merit in both the petitions the same are dismissed.

6TH APRIL, 2022 **(RAJBIR SEHRAWAT)**
'raj' **JUDGE**

Whether speaking/reasoned: Yes No

Whether Reportable: Yes No