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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 8280 of 2023

Central Board of Trustees,
Employees' Provident Fund Organisation
Vs.
Union of India & Ors.

Ms. Debjani Ghoshal
... For the petitioner.

Mr. Kumar Jyoti Tewari
Mr. Tirtha Pati Acharyya
... For the Union of India.

Mr. Ravi Kumar Dubey
... For the respondent no.3.

1. The present writ application has been filed, inter alia, challenging the order dated 11th January, 2023, passed by the learned Central Government Industrial Tribunal, Kolkata, in Appeal No. EPF 3 of 2021.

2. Ms. Ghosal, learned advocate representing the petitioner submits that the petitioner is only aggrieved with the direction issued by the Tribunal insofar as the same exempted the respondent no.3 from making payment of damages for the pre-coverage period from 1st July, 2005 to February, 2010. She says that the Tribunal Committed jurisdictional error in granting such exemption, which is not warranted in law.

3. Mr. Dubey, learned advocate representing the respondent no.3, on the other hand, submits that the

Tribunal has only granted exemption in respect of the aforesaid pre-coverage period from 1st July, 2005 to February, 2010. The Tribunal has, however, directed the respondent no.3 to make payment of interest and damages under Section 7Q and 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the "said Act") for the period March, 2010 till April, 2019 within a period of two months. The respondent no.3 has already complied with such direction. He says that since the petitioner was not authorized to levy damages for the period from 1st July, 2005, which was a pre-coverage period, the Tribunal had exempted the respondent no.3, from making such payment.

4. Heard the learned advocates appearing for the respective parties and considered the materials on record. I find that the only issue involved in the present writ application is whether the Tribunal could have granted exemption for making payment of damages for the pre-coverage period from 1st July, 2005 to February, 2010.

5. I must note, in course of hearing, the petitioner had produced a Circular dated 13th February, 2009, inter alia, contending that the levy of damages for the pre-discovery period has since been withdrawn. Since the said Circular referred to another Circular dated 17th June, 2004, with relation to the levy of damages for pre-discovery period,

this Court had directed the petitioner to produce copy of such Circular.

6. Pursuant to the leave, the petitioner has since, filed a supplementary affidavit affirmed on 3rd July, 2023 and has produced the Circular dated 17th June, 2004.

7. A perusal of the said Circular dated 17th June, 2004 would demonstrate that the petitioner on the basis of the 165th meeting of the Central Board of Trustees, held on 3rd December, 2003, had decided that no damages shall be levied for pre-discovery period under certain conditions.

8. I find that the Tribunal has exercised its discretion in the matter. I also find that the said discretion cannot be said to have been exercised arbitrarily. I also find that the respondent no.3 has already complied with the said order.

9. As such there is no illegality in the order. The order does not suffer from any jurisdictional error.

10. For reasons as stated above, I am not inclined to interfere with the same and the writ application is accordingly dismissed.

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

(Raja Basu Chowdhury, J.)