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03.10.2023
D.Hira
Court No. 12

**In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side**

**MAT 1581 of 2023
With
CAN 1 of 2023**

**M/s. Modern Nursing Home
Versus
The Employees Provident Fund Organization & Ors.**

**Mr. Sanjay Saha,
Mr. Lal Ratan Mondal.
... for the appellant**

**Ms. Aparna Banerjee,
Mr. Suman Chattopadhyay.
... for the private respondent**

The appellant filed writ petition being WPA 15878 of 2023 challenging the notice dated 15.06.2023 issued under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. The said writ petition was dismissed.

Against the order of dismissal of the writ petition, the present appeal is filed.

According to the appellant in their hospital only six persons are working. While so, in the year 2011 the respondents forcibly allotted PF Code and made appellant to sign the document and pay Rs.3,000/- towards Provident Fund contributions. Even now, the appellant is employing only nine persons and the appellant is not liable to pay any contributions to the

Provident Fund account. The Learned Judge erroneously relied on the letter dated 31st March, 2011 and the submission of counsel for the respondents dismissed the writ petition and prayed for setting aside the order of the learned Single Judge and allow the appeal.

Learned counsel appearing on behalf of the respondents submitted that in the year 2011 when the Provident Fund authorities visited the hospital there was twenty employees working. The appellant on his own volition submitted the proforma enclosing the details consisting of names and wages paid to twenty employees. On the basis of their application/proforma dated 24th January, 2011 letter was issued on 31st March, 2011 by allotting provident fund Code to the appellant and directed them to pay the contributions to the provident fund account. Admitting the said letter the appellant paid Rs.3,000/- towards provident fund account. Subsequently, even after receiving several notices the appellant did not come for determination of the provident fund amount. The appellant did not pay the provident fund contributions. Several notices were issued for determination of the provident fund amount, and prayed for dismissal of the appeal.

Heard Mr. Sanjay Saha, learned counsel appearing for the appellant and Ms. Aparna Banerjee, learned counsel for

the private respondents and perused the entire materials on record.

It is not in dispute that in the year 2011 itself PF Code was allotted to the appellant and the appellant paid a sum of Rs.3,000/- towards provident fund contributions. From the materials on record, it is seen that appellant has allotted PF Code based on the application/proforma of the appellant dated 24th January, 2011. In the said application/proforma the appellant has furnished details of names of twenty employees and their salary. In the said proforma the employees also put their signature. The appellant did not challenge the said proceedings and PF Code allotted to it in the year 2011. On the other hand, the appellant paid a sum of Rs.3,000/- towards provident fund contributions. The appellant is also not disputing the proforma submitted by it.

On the other hand, learned counsel appearing for the appellant contended that 13 names mentioned in the proforma relate to relatives of appellant and respondents forcibly included their names. The said contention cannot be accepted, as proforma was signed by the proprietor of the appellant and it is not disputed that the said proforma was submitted by the appellant.

The appellant has not produced any materials to show that the respondent authorities forcibly allotted PF Code and made appellant to pay Rs.3,000/- in the year 2011 towards provident fund contributions. If really the appellant is employing only six persons and not liable to pay any provident fund contributions, the appellant ought to have

challenged the order of the PF authority in the year 2011 itself or within a reasonable time.

In view of the said circumstances, order of the learned Single Judge does not warrant any interference by this Court.

The appeal fails and dismissed.

Learned counsel appearing for the appellant submitted that the appellant will participate before the authority for determination of the provident fund contributions.

In view of the said submission, Provident Fund Authorities are directed to permit the appellant to participate for determination of the provident fund amount.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(V.M. Velumani, J.)

(Rai Chattopadhyay, J.)