

25.09.2023
Item No.4 & 5
Court No.550
Saswata

W.P.A. 4925 of 2023
Hindustan Electrical Construction Co. & Anr.
Versus
Assistant Provident Fund Commissioner & Ors.
with
W.P.A. 30710 of 2014
Haldia Development Authority
Versus
UOI & Ors.

Mr. Rajkumar Sain

... For the petitioners

Mr. Munmun Tiwari

Mr. Sanatan Panja

...For the State

Mr. Avijit Tewary

...For the respondent nos. 1 and 2

Mr. Salil Kumar Maiti

...For the respondent no. 3

1. The present writ application has been filed, inter alia, praying for a direction to give effect to the order of the respondent no. 1 dated 21st April 2014. In connection with the hearing of the present writ application, by an order dated 28th August 2023, this Court was, inter alia, pleased to observe as follows:-

2. *“Record would, however, reveal that challenging the order dated 10/21st April 2014 passed under Section 7B of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the “said Act”), a writ application being WPA 30710 of 2014 (Haldia Development Authority –vs- The Union of India & Ors.) was filed before this Court.*
3. *By an order dated 24th February 2014, a Coordinate Bench of this Court was pleased to stay the operation of the order dated 10/21st April 2014 for a period of two weeks, subject to the Haldia Development Authority securing*

a sum of Rs. 7 lakhs with the Learned Registrar General of this Court within a period of two weeks therefrom.

4. *Although, the Haldia Development Authority claims that it had taken steps to comply with the aforesaid direction, by causing a demand draft to be prepared in the name of the Learned Registrar General of this Court for a sum of Rs. 7 lakhs, the same could not be deposited in time.*
5. *In the facts as noticed hereinabove, the Haldia Development Authority through its advocate Mr. Binoy Kumar Panda had taken out an application being CAN 3688 of 2016 inter alia, praying therein for a direction to extend the period for depositing the said sum of Rs.7 lakhs with the Learned Registrar General, as directed by a Coordinate Bench of this Court on 24th February 2015. Unfortunately, by an order dated 13th February 2017, the writ application being WPA 30710 of 2014 was dismissed for default.*
6. *Records would reveal that the said Haldia Development Authority had since taken out an application being CAN 4589 of 2017 for recall of the order dated 13th February 2017 passed by the Coordinate Bench of this Court. Unfortunately, the said application was also dismissed for default on 2nd August 2019.*
7. *The present writ application has been filed by the petitioners, inter alia, praying for implementation of the self-same order dated 10/21st April 2014, which was the subject matter of challenge in the writ application being WPA 30710 of 2014.*
8. *It would appear from the record that originally the Assistant Provident Fund Commissioner, by an order dated 3rd May 2007 was, inter alia, pleased to determine Rs.7,09,441/- to be due and payable by the petitioners herein. Although, the petitioners had filed a proceeding under Section 7B of the said Act, seeking review, the Assistant Provident Fund Commissioner by an order dated 30th November 2007 was, inter alia, pleased to reject the said application.*
9. *It appears that the petitioners had since, challenged the aforesaid orders issued by the Assistant Provident Fund Commissioner by filing a writ application which was registered as WPA 1173 of 2008. By an order dated 15th May 2009, a Coordinate Bench of this Court, while allowing the said writ application and*

setting aside the order passed under Section 7B of the said Act dated 30th November 2007 had directed the concerned authorities to take a fresh decision in the matter, after giving an opportunity of hearing to the petitioners. Pursuant to the aforesaid direction, the Assistant Provident Fund Commissioner has passed an order dated 10/21st April 2014, thereby, determining liability of the Haldia Development Authority as principal employer to the extent of Rs.7,09,441/-. The Haldia Development Authority was also directed to furnish statutory returns in prescribed formats along with monthly and annual returns for updating the accounts.

10. *As noted above, since, it appears that the Haldia Development Authority has given up its challenge to the aforesaid order dated 10/21st April 2014, thereby, accepting the said order, I direct the Haldia Development Authority to place before this Court a cheque amounting to Rs.7,09,441/- drawn in the name of the Regional Provident Fund Commissioner, Kolkata on the returnable date.”*

2. Pursuant to the aforesaid order, the Haldia Development Authority has produced before this Court a cheque amounting to Rs.7,09,441/- drawn in the name of the Regional Provident Fund Commissioner, Kolkata. Let such cheque be made over to the learned advocate appearing for the respondent nos. 1 and 2 against proper receipt. Let a copy of such receipt be retained with the record. The respondent nos. 1 and 2 shall be at liberty to accept the aforesaid amount without prejudice to their rights to recover interest

3. In light of the fact as noticed hereinabove, inter alia, including the factum of Haldia Development Authority accepting the order dated 21st April 2014, I

am of the view that no order is required to be passed in the writ application at this stage.

4. The respondent nos. 1 and 2 shall, however, be obliged to take further steps in the matter and seek full and complete implementation of the order dated 21st April 2014 and shall bring the proceedings to a logical conclusion.

5. In view thereof, nothing survives in the present writ application and the same is disposed of.

6. Urgent photostat certified copy of this order, if applied for be given to the parties on priority basis upon completion of requisite formalities.

(Raja Basu Chowdhury, J.)