IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4987 of 2023

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Bihar Police Building Construction Corporation Pvt. Ltd. through its Chief Accounts Officer of Hemant Kumar, aged about 55 years (M), 5 B.M.P Campus, P.O. - Veterinary College, P.S. Hawai Adda, Dist.- Patna, Bihar - 800014.

... ... Petitioner/s

Versus

1. Commissioner of Provident Fund, Regional Office, Employees Provident Fund Organization, Bhavisyanidhi Bhawan, R. Block, Road No. - 6, Patna - 800001.
2. Assistant Commissioner of Provident Fund, Regional Office, Employees' Provident Fund Organization, Bhavisyanidhi Bhawan, R. Block, Road no. - 6, Patna - 800001.
3. Industrial Tribunal-cum-labour Court II Shriram Bhawan, Murli Nagar, Jagjivan Nagar, Dhanbad 826003.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prakash Sahay, Advocate.
For the Respondent/s	:	Mr. Additional Solicitor General.
For the E.P.F.O.	:	Mr. Prashant Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL ORDER

8 05-09-2024 Heard learned counsel for the parties.

2. The present Writ Petition has been filed for the following reliefs:-

> *".....for issuance of an appropriate writ/writs, order/orders, direction/directions to quash for that the impugned order is illegal and bad in law and as such it is not sustained for the following reasons;*
>
> *To direct respondent to dispose of the refund of the excess amount after disposal of in LPA No. 114 of 2015 decided on 31.03.2016 by this Hon'ble High Court who was pleased to dismiss the LPA filed by the respondent thus the respondent was under legal obligation to refund the excess amount with interest without causing*

any delay. But the respondents have not refunded the excess amount Rs. 711926/- with interest 12 % per annum with interest even after lapse of more than 6 years or may be allowed to adjust the said amount.”

3. Admittedly, the writ petitioner in this case is covered under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the ‘Act’). The authorities in their wisdom have passed the order dated 03.12.2008 under 7Q & 14B of the Act levying an amount of Rs. 7,79,015/- under Section 7Q and an amount of Rs. 71,01,720/- under Section 14B.

4. Aggrieved by the said assessment, the petitioner has preferred a statutory appeal before the Tribunal. The Tribunal vide order dated 09.09.2009 while setting aside the damages levied by the authority under Section 14B at the rate of 37% has remanded the matter back to the authority for passing orders afresh by limiting the damages to 10% per annum on the arrears.

5. Aggrieved by the order of the tribunal dated 09.09.2009, the respondents herein have approached this Hon’ble Court by way of CWJC and the said CWJC was dismissed on 01.04.2013. Thereafter, a review was filed but without any success, the respondents then preferred an LPA against the order of dismissal of the review application filed in CWJC and the LPA vide order dated 31st March, 2016 was dismissed. Though, much

time has passed, the respondents have till date not passed any order of assessment as directed by the Tribunal vide order dated 09.09.2009 passed in A.T.A No. 889 (3) 2008.

6. Learned counsel for the respondents has stated that in case some time is given, the respondents will pass necessary orders. Further, it is stated that the matter is very old one and official-respondents are unable to locate some of the documents and they have issued notice to the petitioner but the petitioner has not been cooperating. Further, it appears from the record that the petitioner pursuant to the initial order of assessment passed under Section 7Q and 14B of the Act while preferring the appeal before the Tribunal has deposited an amount of Rs. 15/- Lakhs as a precondition for hearing the appeal and the same is not denied. The authorities should have passed the fresh order of assessment immediately after the disposal of the appeal i.e. 09.09.2009, but they have preferred a CWJC before this Hon'ble Court, thereafter, LPA. Even after the disposal of the LPA, though more than fifteen years have lapsed, they have till date not taken any steps to reassess the damages as directed by the Tribunal except issuing a notice (Letter No. BR/5080/RRC-4096/2009/1118) dated 28.08.2020.

7. Having regard to the above mentioned facts and circumstances, the present writ petition is disposed of directing the

respondents to pass necessary orders in consonance with the directions of the Tribunal dated 09.09.2009 as expeditiously as possible preferably within a period of three months from the date of the receipt of the copy of this order. In case, the authorities are unable to pass any order, they shall refund the amount of Rs. 15 lakhs after deducting the interest assessed by them under Section 7Q of the Act i.e. Rs. 7,79,015/- within a period of two weeks from the date of expiry of three months granted by this Court. It is also made clear in case, the assessment is made by the authority concerned under Section 14B of the Act either before the expiry of the time period granted by this Court or after the expiry of the time period assessed is more than the amount, the petitioner shall pay the same, if the amount deposited by the petitioner.

8. With the above directions, the present writ petition stands disposed of to the extent indicated above.

(A. Abhishek Reddy, J)

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