IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.559 of 2024

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Darbhanga Municipal Corporation, Darbhanga At and Post-Lalbagh, District-Darbhanga, through its City Manager cum Authorized Signatory, Md. Azhar Hussain, aged about 50 years, Gender-Male, S/o Md. Ekramuddin. ... ... Petitioner/s

Versus

1. The Union of India through the Board of Trustees (Central Board), Employees Provident Fund Organization (Ministry of Labour and Employment), Government of India, 14-Bhikaji Kama Palace, New Delhi-110066.
2. The Board of Trustees (Central Board), Employees Provident Fund Organization (Ministry of Labour and Employment), Government of India, 14-Bhikaji Kama Palace, New Delhi-110066.
3. The Regional Provident Fund Commissioner-II, Employees Provident Fund Organization (Ministry of Labour and Employment), Regional Office, Syed Nagar, Ekmi Road, Laheriasarai, Darbhanga-846001.
4. The Regional Provident Fund Commissioner-II, Employees Provident Fund Organization (Ministry of Labour and Employment), Regional Office, Surya Complex, Laxmi Chowk, Muzaffarpur .... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Sinha,
Mr. Indrajeet Bhushan,
Mr. Manish Kumar, Advocates.

For the Respondent/s : Mr. Prashant Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL ORDER

2 22-01-2024 Heard the parties.

2. Learned counsel for the petitioner has stated that though the petitioner has filed statutory appeal before the appellate authority under the Provident Fund Act, the Tribunal is not functioning and therefore the petitioner could not obtain any interim order seeking stay of the order of assessment passed by the Provident Fund authority. Learned counsel has further stated that as per the provision of the Provident Fund Act, the petitioner is obligated to pay 75% of the assessed amount at the time of filing of the appeal, however, there is a provision under the Act for seeking either waiver of the said 75% or for reduction of the amount.

3. Learned counsel has stated that the petitioner has a

very good case and confident that the appeal filed would be allowed. Learned counsel has stated that due to non functioning of the Tribunal, the authorities have issued two notices which are impugned in the present writ petition seeking recovery of the amounts assessed by the Provident Fund authority. The amount of Rs. Two Crores has already been recovered from the petitioner's bank account and counsel apprehends that the balance amount may also be deducted from his bank account.

4. Learned counsel has, therefore, sought stay of the impugned notices i.e., Annexure P-1 dated 29.11.2023 and Annexure P-2 dated 29.11.2023.

5. Per contra, learned counsel for the Respondents has vehemently opposed the very maintainability of the present petition and stated that the petitioner has filed an appeal after a period of almost one year from the date of passing of the assessment order by the Provident Fund authority. Learned counsel for the State submits that the petitioner may be relegated to the appellate authority and seek remedies before the appellate authority. However, learned counsel has fairly stated that the appellate tribunal is not functioning as on date due to the retirement of the Presiding Officer.

6. Without going into merits or demerits of the case,

having regards to the facts that the Employees Provident Fund Appellate Tribunal-cum-Central Government Industrial Tribunal, Dhanbad is not functioning, this Court is of the opinion that the present petition can be disposed of directing the petitioner to deposit 40% of the assessed amount i.e., 40% of Rs. 13,94,34,651/- (Thirteen Crores Ninety Four Lacs, Thirty Four Thousand Six Hundred Fifty One only) within a period of one month from today. The amounts already recovered from the petitioner's bank account shall also be taken into account while calculating the 40%. In case, the amount is deposited within time stipulated by this Court, the authorities concerned shall not take any further action pursuant to Annexure P-1 dated 29.11.2023 and Annexure P-2 dated 29.11.2023.

7. It is made clear that in case the petitioner does not deposit 40% of the assessed amount as directed by this Court, the authorities are free to take any action for recovery of the amount assessed.

8. With the aforesaid direction, the present writ petition stands disposed of.

(A. Abhishek Reddy , J)

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