IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (L) No. 6291 of 2024

Shishir Kumar aged about 48 years S/o Late P.C. Singh Partner M/s Magadh Engg. Works, residing at Plot No. 112, Lohanchal Colony, Sector 12, P.O & P.S-Bokaro Steel City Dist:- Bokaro-827012 Jharkhand.

… … Petitioner

Versus

1. Employees Provident Fund Organization through its Assistant Provident Fund Commissioner, having its District Office at Near Dy. S.P Office, Sector-1, Ram Mandir, P.O and P.S-Bokaro Steel City, District-Bokaro.

2. The Recovery Officer, Employees Provident Fund Organization, having its Office at Near Dy. S.P Office, Sector-1, Ram Mandir, P.O and P.S-Bokaro Steel City, District-Bokaro. **… … Respondents**

CORAM: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioner : Mr. Alok Kumar, Advocate
Mr. Santosh Kumar, Advocate
Mr. Pankaj Kumar, Advocate

For the Respondents :

2/13th December 2024

1. This writ petition has been filed for the following reliefs: -

> *"for the issuance of an appropriate writ/writs, order/orders, direction/directions upon the respondents and particularly, respondent No. 2 to stay the recovery proceeding against the petitioner and to withdraw notice for recovery contained in letter bearing no. JH/DO/BOKARO/Recovery/JHRAN0006671/2024/765 dated 18.10.2004 (Annexure-1) by which a recovery order has been issued against the petitioner directing him to pay Rs. 19,21,878/ despite the fact that the petitioner has already filed statutory Appeal against the order of determination of dues under section 7A of Employees' Provident Funds & Miscellaneous Provisions Act 1952 [EPF & MP Act, 1952] which has been registered as IT-2/79/2022 and which is pending in the Learned Central Government Industrial Tribunal No.2 at Dhanbad.*
>
> *AND*

For issuance of appropriate direction upon the respondents to await the decision of the Appellate Authority under section 7-I of the Employees' Provident Funds & Miscellaneous Provisions Act 1952 before rushing ahead and recovering the entire alleged dues particularly when the officer of Appellate Authority, Presiding Officer, Central Government Industrial Tribunal No.2 at Dhanbad is vacant.

AND

For issuance of any other writ, order or direction that may be incidental to or connected with any or more of the reliefs sought for hereinabove or for doing conscionable justice to the petitioner."

2. Learned counsel for the petitioner has submitted that an order dated 12.08.2022 was passed against the petitioner under Section 7A of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 by the respondent No. 1 and the petitioner was directed to pay an amount of Rs. 19,21,878/- as EPF and allied dues for the period 01/2001 to 06/2019.

3. Against such adjudication, the petitioner has preferred an appeal before the appellate authority which has been registered as IT-2/79/2022 along with application for stay and the appeal was fixed for final hearing. He submits that during the pendency of the appeal, the respondents have taken steps for recovery vide letter dated 18.10.2024 and summons under Para 83 of the 2nd Schedule to Income Tax Act, 1961 was issued.

4. The learned counsel submits that the post of Presiding Officer of Central Government Industrial Tribunal-cum-Labour Court (No. 2), Dhanbad is vacant and therefore the petitioner has been rendered remediless. Therefore, this writ petition has been filed seeking appropriate relief during the pendency of this appeal.

5. Mr. Anil Kumar, learned ASGI was called upon to inform this Court as to whether the office of Central Government Industrial Tribunal-cum-Labour Court (No. 2), Dhanbad is vacant. He has submitted that although there is no regular Presiding Officer, but alternative arrangements have been made by giving additional charge to the Presiding Officer of CGIT, Bhuwneshwar.

6. Considering the aforesaid submission, this Court finds that although no regular Presiding Officer has been appointed in Central Government Industrial Tribunal-cum-Labour Court (No. 2), Dhanbad, but alternative arrangements have been made. In such circumstances, the operation of Annexure-1 dated 18.10.2024 to the writ petition is stayed only for a period of two months from today, so that the petitioner may seek appropriate relief from the appellate authority as and when the in-charge Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court (No. 2) holds the court at Dhanbad.

7. It is made clear that if any recovery has been made pursuant to Annexure-1, then there is no question of refund of amount to the petitioner pursuant to this order and such recovery would be subject to the final result of the appeal.

8. Accordingly, this writ petition is disposed of.

9. Pending I.A., if any, is closed.

(Anubha Rawat Choudhary, J.)

Mukul