

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12942 OF 2024

Secure Services

... **Petitioner**

Versus

Regional Provident Fund

Commissioner II And Anr

... **Respondents**

Ms. Samiksha Kanani *a/w Ms. Prasanna Pawar for the Petitioner.*

Mr. Gunjan Chaubey *a/w Chaitanya Shirasao for the Respondents.*

CORAM : SANDEEP V. MARNE, J.

DATE : 19 SEPTEMBER 2024.

P.C. :

1) This Petition is filed challenging order dated 28 April 2023 passed by the Regional Provident Fund Commissioner-II Regional Office Vashi under provisions of Section 14B and 7Q the Employees' Provident Funds and Miscellaneous Provisions Act 1952. The Petition is filed under an erroneous presumption that the orders passed under Section 14B and 7Q of the Act are dated 28 April 2024, when in fact the said orders are passed on 28 April 2023. Erroneous assumption of date of passing of orders on the part of the Petitioner has led to raising of baseless and misleading ground that the recovery certificate dated 23 April 2024 was issued three days prior passing of the order under

Section 14B and 7Q of the Act. Ms. Kanani, the learned counsel appearing for Petitioner would submit that there was genuine mistake on the part of the Petitioner in assuming the date of orders under Section 14B and 7Q of the Act as 28 April 2024. She would seek leave to withdraw the ground about issuance of recovery certificate prior to passing of the order.

2) Even if the Petitioner is permitted to withdraw the above ground, in my view orders dated 28 April 2023 have now attained finality. Petitioner had alternate remedy of filing Appeal under Section 7-I of the Act against order dated 28 April 2023 passed under Section 14-B of the Act. Petitioner has not availed the said remedy and has filed present Petition directly before this Court, that too after delay of one year and five months. The recovery certificate dated 23 April 2024 the show cause notice for warrant of arrest dated 10 July 2024 as well as are merely consequential actions, which are initiated on account of orders dated 28 April 2023 having been attained finality.

3) Since the orders dated 28 April 2023 have attained finality, I am not inclined to entertain the present Petition, which is filed to avoid consequential action initiated for implementation of the orders dated 28 April 2023.

4) Ms. Kanani would press for prayer clause B of the Petition in which the Petitioner has sought refund of alleged illegally recovered amount during statutory period of filing of Appeal. The said recovery has taken place in the year 2021, which was not questioned by the

Petitioner for the last three long years by adopting any remedy. It appears that Petitioner has raised the contention about illegal recovery in appeal filed under Section 7-I of the Act. The tribunal shall consider and decide the said objection and therefore prayer clause 'B' in the present Petition cannot be entertained.

5) Writ Petition is accordingly rejected.

[SANDEEP V. MARNE, J.]