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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 7314/2024**

M S KARVY DIGI KONNECT LIMITED Petitioner

Through: Mr.____, Advocate (Appearance not given)

versus

EMPLOYEES PROVIDENT FUND ORGANIZATION

..... Respondent

Through: Mr.Siddharth, Standing Counsel for EPFO with Mr.Anshul Saxena, Advocate

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

21.05.2024

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CM APPL. 30544/2024 (Exemption)

Exemption allowed subject to just exceptions.

The application stands disposed of.

W.P. (C) 7314/2024

1. The instant writ petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner seeking the following reliefs:-

“a. Issue an appropriate writ (preferably writ of mandamus) thereby directing the Respondent to comply Section 7A of the Employees provident Funds And Miscellaneous Act 1952;

b. Declare the show cause/demand notice dated 11.03.2024, as illegal (for not Following Section 7A of Employees Provident Fund and Miscellaneous provisions Act 1952) ;

c. Declare such show cause/demand notice dated 11.03.2024 under section 8 F(3)(x) of Employees Provident Fund and Miscellaneous provisions Act 1952 ,as illegal (for not following



Section 7A of the act);

d. Stay the recovery process unless Section 7A is Followed by the Respondent;

e. Pass such other order or orders as may be deemed fit and proper in the facts and circumstance of the case.”

2. Learned counsel for the respondent vehemently opposing the averments made by the petitioner in its petition and further contended the petitioner has not approached this Court with clean hands since the instant writ petition has been filed by the petitioner seeking quashing of the show-cause notice dated 11th March, 2024 without disclosing the fact that the petitioner had earlier filed a writ petition bearing no. 5917/2024 seeking similar relief i.e., challenging the legality of the show-cause notice dated 11th March, 2024 was dismissed by this Court *vide* order dated 26th April, 2024 on the ground that the show-cause issued to the respondent no.2 therein for alleged non-payment on its part does not impact the rights of the petitioner hence, the petitioner did not have the locus to file the aforesaid writ petition.

3. On a specific query made to the learned counsel for the petitioner pertaining to the same, the learned counsel for the petitioner conceded that the petitioner had filed an earlier writ petition i.e., W.P. (C) 5917/2024 on same subject seeking relief similar as sought in the instant petition.

4. Heard learned counsel for the parties and perused the material on record including the order passed by this Court in W.P. (C) 5917/2024.

5. It is an admitted fact that the petitioner filed the instant petition seeking similar relief as sought by the petitioner in W.P. (C) 5917/2024 which has been dismissed by this Court *vide* order dated 26th April, 2024.



6. It is a settled position of law when an earlier writ petition filed on same subject matter seeking similar relief as sought in the subsequent writ petition, then the earlier writ petition filed by the petitioner stands as *res-judicata* in this regard. Moreover, it would lead to wrongful practice of encouraging the unsuccessful litigants to successively file writ petition on same subject matter seeking similar relief.

7. The Hon'ble Supreme Court has succinctly in the judgment of ***State of UP & Anr. Vs. Labh Chand 1993 (2) SCC 495*** enunciated upon the general upon the bar against entertaining successive writ petitions seeking similar prayer and the same has been reproduced herein below:

"20. When a Judge of Single Judge Bench of a High Court is required to entertain a second writ petition of a person on a matter, he cannot, as a matter of course, entertain such petition, if an earlier writ petition of the same person on the same matter had been dismissed already by another Single Judge Bench or a Division Bench of the same High Court, even if such dismissal was on the ground of laches or on the ground of non-availing of alternative remedy. Second writ petition cannot be so entertained not because the learned Single Judge has no jurisdiction to entertain the same, but because entertaining of such a second writ petition would render the order of the same Court dismissing the earlier writ petition redundant and nugatory, although not reviewed by it in exercise of the recognised power. Besides, if a learned Single Judge could entertain a second writ petition of a person respecting a matter on which his first writ petition was dismissed in limine by another learned Single Judge or a Division Bench of the same Court, it would encourage an unsuccessful writ petition to go on filing writ petition after writ petition in the same matter in the same High Court, and have it brought up for consideration before one Judge and another. Such a thing, if is allowed to happen, it could result in giving full scope and encouragement to an unscrupulous litigant to



abuse the process of the High Court exercising its writ jurisdiction under Article 226 of the Constitution in that any order of any bench of such Court refusing to entertain a writ petition could be ignored by him with impunity and relief sought in the same matter by filing a fresh writ petition. This would only lead to introduction of disorder, confusion and chaos relating to exercise of writ jurisdiction by Judges of the High Court for there could be no finality for an order of the Court refusing to entertain a writ petition. It is why, the rule of judicial practice and procedure that a second writ petition shall not be entertained by the High Court on the subject matter respecting which the first writ petition of the same person was dismissed by the same Court even if the order of such dismissal was in limine, be it on the ground of laches or on the ground of non-exhaustion of alternative remedy, has come to the accepted and followed as salutary rule in exercise of writ jurisdiction of Courts."

8. Now adverting to the facts of the instant petition, this Court is of the view that the petitioner has failed to disclose the fact that the W.P. (C) 5917/2024 seeking similar relief on the subject matter has already been dismissed by this Court, the aforesaid act of the Court amounts to abuse of the process of the Court. Hence, the petitioner has not approached this Court with clean hands and made an unsuccessful attempt by concealment of the material fact pertaining to the filing of the earlier petition on the same subject; which might have resulted in an order different from the order passed in the earlier petition and may be to the advantage of the petitioner.

9. It is further opined that the since the petitioner has filed the instant petition seeking similar relief as sought in the W.P.(C) 5917/2024 therefore, the aforesaid writ petition acts as a *res judicata* in this regard. The petitioner cannot by way of filing another writ petition on same subject matter seek any relief.



10. Accordingly, the instant petition being filed on the same cause of action as earlier petition i.e., W.P.(C) 5917/2024 is not maintainable, stands dismissed alongwith pending applications, if any.

11. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

MAY 21, 2024
dy/db

[Click here to check corrigendum, if any](#)