

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17230 of 2024

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Bihar Renewable Energy Development Agency 2nd Floor, Vidyut Bhawan-II, Bailey Road, Dist-Patna, Bihar-800001, represented through its authorized signatory Mr. Gautam Prasad Budha, Male, S/o Kailash Prasad, Age-53 years, R/o-103, Shree Jagannath Enclave, East Patel Nagar, Road No. -10, L.B.S. Nagar, P.O. and P.S.-Shastri Nagar, Patna, Bihar-800023.

... .. Petitioner/s

Versus

1. The Union of India through Secretary, Ministry of Labour and Employment through its Secretary, Govt. of India, Shram Shakti Bhawan, Rafi Ahmad, Kidwari Marg, New Delhi.
2. Central Board of Trustees, Employees Provident Fund Organization through Regional Provident Fund Commissioner having its Regional Office at R. Block Road No. -6, P.S.-Sachivalaya, Dist-Patna.
3. The Regional Provident Fund Commissioner-II having its Regional Office at R. Block Road No. -6, P.S.-Sachivalaya, Dist-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Deo Prakash Singh
For the Respondent/s : Mr. Additional Solicitor General

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

4 11-02-2025 Heard the learned counsel for the parties.

2. This writ petition has been filed for the following

relief(s):-

I) To issue writ/ order/ direction in the nature of certiorari for quashing the demand order u/s 14B of EPF & MP Act, 1952 vide its letter no- BRPAT0010851000/PD/362/2023, dated 26/08/2023 for the damage of Rs. 6,07,083/- (Six Lakh Seven Thousand Eighty Three Only) for the period of 01/10/2021 to



31/03/2023 in contravention to the principles of natural justice by which the petitioner has been deprived to exercise its fundamental right of judicial remedy u/s 71 of the EPF & MP Act, 1952.

ii) To issue writ/ order/ direction for quashing the demand order u/s 7Q of EPF & MP Act, 1952 bearing its no-BRPAT0010851000/7Q/362/2023, dated 26/08/2023 for the period 01/10/2021 to 31/03/2023 of Rs. 2,98,962/- (Two Lakh Ninety Eight Thousand Nine Hundred Sixty Three Only) issue without jurisdiction without procedure of law and without authority to conduct the quasi-judicial proceeding u/s 7Q of the EPF & MP Act, 1952.

iii) To issue writ / order / direction for quashing the composite summon notice u/s 14B of the EPF & MP Act, 1952 for the period 01/10/2021 to 31/03/2023 for suffering from the vice of conflict between the period of assessment 01/10/2021 to 31/03/2023 and the period of computation sheet for another period 10/2019 to 08/2021 entirely beyond the ambit of period of composite summon notice.

iv) to issue an appropriate writ in the nature of mandamus commanding the Respondents particularly to direct the Respondent -3, RPFC-II that no demand order dated 26/08/2023 can precede the date of composite summon notice dated 26/09/2023 and direct that the entire proceeding u/s 14B EPF &



MP Act, 1952 suffers from the vice of violation of natural justice.

v) To hold declare that no composite summon notice in the garb of show cause notice, being the foundational stone of any quasi-judicial proceeding, can traverse the confines of the ambit of notice period and such outreach amounts to gross illegality of law.

vi) to issue an appropriate writ in the nature of mandamus and hold that no order under quasi-judicial proceeding can denude the employer from exercising judicial remedy which amounts to violation of fundamental right and the principles of natural justice.

Vii) For issuance of appropriate writ and direction upon the Respondents to restrain from any coercive proceedings of recovery u/s 8B to 8G of the EPF & MP Act, 1952 until the finality of this writ petition.”

3. Learned counsel for the petitioner has stated that the impugned orders are passed by antedating them. Learned counsel has stated that he has received the copy of the order on 26.09.2024 whereas the date of order is mentioned as 26.08.2023. Learned counsel has stated that due to the antedating of the impugned order, the petitioner has being denied the opportunity of filing a statutory appeal provided under the Act. Learned counsel has, therefore, prayed this



Hon'ble Court to allow the present writ petition and set aside the impugned orders.

4. *Per contra*, the learned counsel appearing on behalf of the respondent organization has stated that the date of order mentioned as 26.08.2023 in the impugned orders is an inadvertent mistake. That instead of typing it as 26.08.2024 it has wrongly been typed as 26.08.2023. Learned counsel has drawn the attention of the Court to the paragraph- 5 of the impugned orders wherein the dates of adjournments have been mentioned which clearly demonstrate that the case was adjourned from time to time from 25.01.2024 till 05.08.2024. Further, it is also stated that the representative of the petitioner was present on each and every day of adjournment, therefore, the contention of the petitioner that he was not aware of the orders being passed is factually incorrect. The petitioner is trying to take advantage of the wrong mentioning of the date in the impugned order. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present writ petition. As seen from the record, irrespective of the fact as to whether the date mentioned in the impugned order is 26.08.2023 or 26.08.2024, the fact remains that in the orders passed under 7Q and 14B of the EPF & MP Act, 1952, the date is mentioned as 26.08.2023.



5. In this case the petitioner has received the copy of the orders on 26.09.2024. Even if the petitioner had filed the statutory appeals as provided under the Act, the Registry of the Central Government Industrial Tribunal, Dhanbad could have taken objection stating that the appeal filed by the petitioner is beyond the period of limitation taking into account the date of order mentioned in the orders as correct. This Court is of the *prima facie* opinion that the ends of justice would be met if the petitioner is permitted to file statutory appeals before Central Government Industrial Tribunal, Dhanbad within a period of two weeks from today. The appellate authority shall number the appeal and decide the same on its own merits after due compliance of the provisions of the act for filing the appeals.

6. As it is stated by the learned counsel for the petitioner that the regular Presiding Officer is not available at Central Government Industrial Tribunal, Dhanbad, the respondents are directed not to take any coercive steps till the date of hearing is fixed by the Tribunal. In case the petitioner does not approach the appellate authority by filing the appeals within the time stipulated by this Court, the protection granted by this Court will cease to exist.

7. With the above directions, the present writ petition



stands disposed of.

(A. Abhishek Reddy , J)

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