IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present :
The Hon'ble Justice Shampa Dutt (Paul)

WPA 5344 of 2015
Steel Authority of India Ltd.
-Versus-
Regional Provident Fund Commissioner & Ors.

For the Petitioner	:	Mr. Soumya Majumder, Sr. Adv. Mr. Bandhu Brata Bhula.
For the SBI	:	Mr. Debashis Saha, Mr. Avirup Roy Sanyal.
For the P.F. Authorities	:	Mr. Anil Kumar Gupta.
Judgment reserved on	:	21.01.2026
Judgment delivered on	:	16.02.2026

SHAMPA DUTT (PAUL), J. :

1. The writ application has been preferred challenging the two orders dated 21st January, 2015 passed by the Respondent EPF and the attachment order dated 17.02.2015 issued to the respondent bank **for the period 11/1998 to 02/2010 and 03/2010 to 12/2010.**

2. The dispute in the present writ application arises out of a proceeding initiated by the respondent no. 2 to **levy damages and charge interest**

under Section 14B and Section 7Q of the said Act in respect of the employees engaged in the Alloy Steels Plant of the petitioner company including contract labourers **for the period from 11/1998 to 12/2010.**

3. It is the case of the petitioner that the said notice is per se predetermined and had already returned a conclusion as regards the alleged dues without affording any opportunity of hearing to the petitioner.

4. It is stated that 28th April, 2014, 24th June, 2014, 16th July, 2014 and 8th August, 2014 were dates fixed for hearing and the petitioner's representative duly attended the said hearing. It was only on one date i.e. 25th September, 2014 when the petitioner's establishment was unable to attend the hearing on the said date and the same was informed to the respondent authority, the respondent authority closed the hearing on 21st July, 2015 and on the same day passed the two impugned orders under Section 14B and 7Q of the EPF Act **(period from 11/1998 to 02/2010 and 03/2010 to 12/2010).**

5. The Regional Provident Fund Commissioner then issued an order to the Bank, vide memo dated 17.02.2015 directing recovery of statutory dues for the period from 11/1998 to 02/2010 and 03/2010 to 12/2010.

6. **It is submitted that though the hearing was closed on 21st January, 2015, the petitioner received notice only on 22nd January, 2015**

after the hearing was concluded and informed the respondent authorities by way of an E-mail.

7. It is the further case of the petitioner that:-

(i) In 1995, when the Employees' Pension Scheme, 1995 was sought to be promulgated, the Steel Workers Federation of India, which is the Federation of the trade unions representing the workmen of the petitioner company as well, filed a writ petition in the Hon'ble High Court at Calcutta challenging the vires of the Employees Pension Scheme, 1995. An interim order was passed on **15th March, 1996** staying the implementation of the Employees' Provident Funds Miscellaneous Provisions (Amendment) Ordinance, 1995 till further order. All the units of Steel Authority of India Limited were impleaded in the said writ petition.

(ii) Union of India preferred Special Leave Petition from the Division Bench Order dated 19th February, 1997; whereupon the Hon'ble Supreme Court clarified the interim order passed by the Division Bench of this Hon'ble Court to the extent that those workmen who wanted to take the benefit of the Employees Pension Scheme, 1995 would have to accept the procedure under the Scheme and would have to contribute appropriately for availing the benefit of the Employees Pension Scheme.

(iii) The issue as regards the vires of the Employees Pension Scheme, 1995 was ultimately decided by the Hon'ble Supreme Court in a judgment delivered on **11th November, 2003.** By the said judgment, the Hon'ble Supreme Court held the Employees Pension Scheme, 1995 to be intra-vires.

(iv) It is further stated in this context that at no point of time did the petitioner company object to the implementation of the Employees Pension Scheme, 1995, **but it was at the instance of the employees of the petitioner company that such implementation had been stayed and thus the petitioner was disabled by operation of Courts order from depositing contributions to the Pension Fund under the Employees Pension Scheme, 1995.**

8. Subsequently, the proceedings under Section 7A was initiated by the respondent authorities claiming damages and interest for the period, when the petitioners were unable to deposit due to the interim order of the High Court being in force.

9. It is further stated that during the said proceedings, the establishment of the petitioner company had deposited a sum of Rs. 12,49, 65, 969/-

and Rs. 2,22,61,948/- to the Pension Fund maintained under the Employees Pension Scheme 1995 and interest thereon respectively. Thus there was a balance of Rs. 2,83,99,655/- payable towards interest to the Pension Fund till 31st August, 2004. On determination of the said amount of interest (Rs. 2,83,99,655/-), the petitioner paid the said amount by three installments in between October 2004 to August, 2005.

10. Thus the amount payable towards the Pension Fund along with interest had been deposited by the petitioner company towards the Pension Fund, although it is stated that for **the period of lis pendence (March, 1996 to November, 2003),** the petitioner was not liable to be charged with interest inasmuch as the delay was caused due to the employees having taken up the matter in various Courts of law and having obtained interim orders; thereby restraining the employer from depositing the contributions that were liable to be paid under the provisions of the Employees Pension Scheme, 1995.

11. **The respondent authority rejected the petitioner's application for recall of the said orders.**

12. Affidavits are on record. In their affidavit-in-opposition, the respondent no. 1 and 2 being the enforcement officer of the EPF organization have denied the case of the petitioner and has subsequently stated that in spite of having due notice of the hearing, the petitioner failed to appear on the final date of hearing and as such the authorities proceeded in accordance with law, by initiating proceedings and passing orders under

Section 14B and 7Q of the Act after giving sufficient opportunity of hearing to the petitioner.

13. The other statements of the petitioners are denied by the said respondents.

14. The petitioners have relied upon the judgment of this Court in **WPA 5354 of 2015 dated 12.09.2025** in support of their case in the present writ application.

15. On the other hand, the respondent provident fund authorities have filed their written notes reiterating their case as stated in the affidavit-in-opposition.

16. It is further stated by the respondent that as the petitioner failed to make the said payment, an order of attachment dated 17th February, 2015 was issued by the Regional Provident Fund Commissioner to the Branch Manager, State Bank of India, Durgapur to pay the outstanding dues in respect of the said amount as decided under Section 14B and 7Q of the EPF Act.

17. **The respondents** have relied upon the following judgments in support of their contentions:-

a) ***Asstt. P.F. Commissioners, Employees' Provident Fund Organisation vs Pawan Kumar Agarwala & Ors., 2007 SCC OnLine Cal 692.*** (Orders under Section 14B and 7Q EPF being appealable before the tribunal).

In this case **10 years** have passed since the writ was admitted and the petitioner herein has **alleged perversity** in the orders under challenge and as such, no fruitful purpose will be served by asking the petitioner to prefer an appeal at this stage.

b) ***Hindustan Times Ltd. vs Union of India & Ors., (1998) 2 SCC 242.*** (Causes of delay which are not acceptable).

The causes referred to there in, are not the reasons herein.

c) ***Horticulture Experiment Station Gonikoppal, Coorg vs Regional Provident Fund Organization, (2022) 4 SCC 516.*** (Mens rea not essential ingredient for penalty).

18. The respondent has further relied upon the judgment of a Co-ordinate Bench of this Hon'ble Court **in WPA No. 13339 of 2019 *(Ontrack Systems Limited–vs-Regional Provident Fund Commissioner-II & Ors.)* dated 14.09.2021.** Relying upon the said judgments the respondent submits that as an alternative remedy of appeal is available to the petitioner, they should avail of the same and the writ is not maintainable.

19. On the other hand the petitioner claims that not only were they not heard properly, their case as made out was not even considered and the same is apparent from the impugned orders.

20. The writ application is of the year, 2015 and at this stage, the petitioner cannot be asked to approach the appellate forum, when perversity in the orders under challenge has also been alleged.

21. It is appears from the impugned order under Section 14B and 7Q of the EPF Act that, the concerned authority, who passed the order under Section 14B and 7Q of the EPF Act has categorically noted that the representative of the petitioner herein had stated that there was no delay in depositing dues as alleged by the EPF Authority.

22. It is further noted by the Authority that in spite of several opportunities being granted to the petitioner, they failed to appear before the authority and as such the authority proceeded to conclude the matter on the basis of available records **(though petitioner's allege that no due notice was given to them).**

23. **It appears from the said order that the authority concerned has not given any specific findings in the order passed under Sections 14B and 7Q of the EPF Act. After noting that the matter is being heard on the basis of available records, the authority has proceeded to pass the order awarding the damage and accrued interest.**

24. The final observation in the orders under challenge both dated 21.01.2015 is:-

> *"………On 24.06.2014, Sh. Anirban Das & Sh. Chandan Kumar Sarkar (Authorised Representatives) appeared on behalf of the establishment and requested to adjourn the*

case today and fix another date for hearing. Prayer was granted. The hearing is adjourned to 16.07.2014 and on different dates. Finally the same was <u>heard on 21.01.2015.</u>

None appeared on 21.01.2015 since lots of opportunity has been given to the establishment concerned for natural justice in the matter to ascertain the dues u/s-14B & 7Q but the establishment failed to appear before the hearing authority. It appears that the establishment has nothing to say in the instant matter. So I think there is no need to linger the proceedings further and the hearing is concluded on the basis of available records.....”

25. Finally **a composite order** under Section 14B and 7Q of the EPF was passed **with no further reasons or discussion,** but it has been noted that **as the petitioner establishment failed to appear on several dates, the orders were passed based on records.**

26. In ***Dalgaon Agro Industries Ltd. (Now known as Tasati Tea Ltd.) Versus Union of India & Ors. (Supra),*** the Calcutta High Court held:-

> *“11.2. In this context we may refer to the provisions of section 14B. The reasonable opportunity of being heard has been given to the employer in order to establish that there is no default and he is not liable for damages or that the period of default is such that he is liable to a particular rate of damages or he is entitled to exemption provided thereunder. In case of imposition of damages the question being guided by statutory directions and*

guidelines which are mathematically calculable and being absolutely objective with mathematical precision, ***it is only the <u>period of delay</u> which is relevant <u>to be explained</u> but not the reasons. Whatever might be the reasons the damage is leviable.*** *The same can neither be reduced nor waived* ***except*** *in relation to an establishment which is* ***a sick industrial company*** *and in respect of which* ***scheme for rehabilitation*** *has been sanctioned by the Board for Industrial and Financial Reconstruction established under section 4 of the Sick Industrial Companies (Special Provisions Act, 1985 and that too by the Central Board under the 1952 Act. Section 14B does not contemplate any power either to the Central Provident Fund Commissioner or such officers authorized by the Central Government by notification, to reduce or waive the damages leviable under section 14B since specified in the scheme. It is expected that the records would be available in the establishment with the employer. Therefore the apprehension that the transferee may not be able to explain the reason for default would not attract the principles of natural justice and cannot be a factor to interpret the provisions of section 17B. The principles of natural justice has no role to play in the sphere of interpretation of statutes. In any event when the language of a particular section is clear and the meaning given to it is compatible with the context in which it has been enacted and the object and purpose for which it has been designed to serve, and is not inconsistent therewith, then we are not supposed to take any*

> *external aid for construing or interpreting a particular legislation."*

27. **The orders in this case dated 21.01.2015 did not take into consideration the stay order of the Court from March, 1996 to November, 2003 and there is also no findings relating to the actual delay in this case *(Dalgaon Agro Industries Ltd. (Now known as Tasati Tea Ltd.) Versus Union of India & Ors. (Supra)).*** The petitioner tried to submit some documents to show that the delay for a certain period **March, 1996 to November, 2003** is due to the pendency of the proceedings before several Courts, **but the authority did not even discuss the same.**

28. Remanding this case after 10 (ten long years) will be an abuse of the process of law and against the principle of natural justice and as such the writ is being decided by this judgment.

29. In ***Organo Chemicals Industries and Anr. vs Union of India & Ors., 1979 (4) SCC 573, decided on 23 July, 1979,*** the Supreme Court held:-

> *"**Per Krishna Iyer, J.***
>
> *6. A high official hears and decides. The maximum harm is pecuniary liability limited by the statute. The writ jurisdiction is ready to review glaring errors. Under such circumstances the needs of the factual situation and the legal milieu are such that the absence of appellate review in no way militates against the justice and reasonableness of the provision. The argument of*

arbitrariness on this score is untenable. ***The section is not bad, though action under the section can be challenged in writ jurisdiction when infirmities which attract such jurisdiction vitiate the order. [71 E-F]***

8. The word 'damages' under s. 14B has a wealth of implications and limitations, sufficient to serve as guideline in fixing the impost. The conceptual limitations of 'damages' serve as guideline and barricade the exercise. The Commissioner cannot award anything more than or unrelated to 'damages'. Nor can he go beyond 100% of the amount defaulted. Such limitations without further guidelines are not uncommon in taxing laws to penalise defaults and suppressions. [73B, H, 74A] 64 C.I.T., M.P. v. Radhakrishan, [1979] 2 SCC 249; P. N. Kaushal v. Union of India, etc., [1978] 3 SCC 558; referred to.

11. The power conferred to award damages is delimited by the content and contour of the concept itself and if the Court finds the Commissioner travelling beyond, the blow will fall. Section 14B is therefore good for these reasons. [74G]

<u>Per Sen, J.</u>

3. The imposition of damages under section 148 serves a two-fold purpose. It results in damnification and also serves as a deterrent. The predominent object is to penalise, so that an employer may be thwarted or deterred from making any further defaults. [87E]

The expression "damages" accruing in Section 14B is, in substance, a penalty imposed on the employer for the breach of the statutory obligation. The object of imposition of penalty u/s 14B is not merely "to provide compensation for the employees". The imposition of damages u/s 14B serves both the purposes. It is meant to penalise defaulting employer as also to provide *reparation for the amount of loss suffered by the employees. It is not only a warning to employers in general not to commit a breach of the statutory requirement of section 6 of the Act, but at the same time it is meant to provide compensation 66 or redress to the beneficiaries i.e. to recompense the employees for the loss sustained by them. The damages need not bear any relationship to the loss which is caused to the beneficiaries under the scheme. [87F-G]*

7. The power of Regional Provident Fund Commissioner to impose damages under section 14B is quasi-judicial function. It must be exercised after notice to the defaulter and after giving him a reasonable opportunity of being heard. The discretion to award damages could be exercised within the limits fixed by the statute, by taking into consideration various factors, namely, the number of defaults, the period of delay, the frequency of defaults and the amount involved. Having regard to the punitive nature of the power exercisable under Section 14B and the consequences that ensue therefrom, ***an order under Section 14B must be a "speaking order" containing the reasons in support of it. [83H-84A] 67 Commissioner of Coal Mines Provident Fund, Dhanbad v. J. Lalla & Sons, [1976] 3 S.C.R. 365; referred to.***

8. Mere absence of provision for an appeal in the Employees Provident Fund and Miscellaneous Provisions Act, 1952 does not imply that the Regional Provident Fund Commissioner, is invested with arbitrary or uncontrolled power, without any guidelines. [85B]

The conferral of power to award damages under section 14B is to ensure the success of the measure. It is dependent on existence of certain facts, there has to be an objective determination, not subjective. [85C]

The Regional Provident Fund Commissioner has not only to apply his mind to the requirements of Section 14B but is cast with the duty of making a speaking order after conforming to the rules of natural justice. [85C]

The absence of a provision for appeal or revision can be of no consequence. Where the discretion to apply the provisions of a particular statute is left with the Government or one of the highest officers, it will be presumed that the discretion vested in such a high authority will not be abused. The Government or such authority is in a position to have all the relevant and necessary information in relation to each kind of establishment, the nature of defaults made by the employer and the necessity to decide whether the damages to be imposed should be exemplary or not. When the power has to be exercised by one of the highest officers, the fact that no appeal has been provided for "is a matter of no moment". There is always a presumption that public officials would discharge, their duties honestly and in accordance with the rules of law. [85G, D-F]

Mohammad Ali and Ors. v. Union of India and Anr., [1963] Suppl. 1 SCR 993; K. L. Gupta v. Bombay Municipal Corporation, [1968] 1 SCR 274; Chintalingam and Ors. V. Govt. of India and Ors. [1971] 2 SCR 871 and Pannalal Binjraj v. Union of India, [1957] SCR 233; followed."

30. Para 32B of the EPF scheme, 1952 is as follows:-

"32B. Terms and conditions for reduction or waiver of damages.- *The Central Board may reduce or waive the damages levied under section 14-B of the Act in relation to an establishment specified in the second proviso to section 14-B, subject to the following terms and conditions, namely,-*
(a)in case of a change of management including transfer of the undertaking to workers' co-operative and in case of merger or amalgamation of the sick industrial company with any other industrial company, complete waiver of damages may be allowed;
(b)in cases, where the Board for Industrial and Financial Reconstruction, for reasons to be recorded in its Scheme, in this behalf recommends, waiver of damages up to 100 per cent. may be allowed;

> ***(c)in other cases, depending on merits, reduction of damages up to 50 per cent. may be allowed."***

31. In ***M/s. Hindustan Times Limited vs Union of India & Ors., AIR 1998 SC 688, decided on 7 January, 1998,*** the Supreme Court held:-

> *"…….. From the aforesaid decisions, the following principles can be summarised:* ***The authority under Section 14-B has to apply his mind to the facts of the case and the reply to the show cause notice and pass a reasoned order after following principles of natural justice and giving a reasonable opportunity of being heard;*** *the Regional Provident Fund Commissioner usually takes into consideration the number of defaults, the period of delay, the frequency of default and the amounts involved; default on the part of the employer based on pleas of power cut, financial problems relating to other indebtedness or the delay in realisations of amounts paid by the cheques or drafts, cannot be justifiable grounds for the employer to escape liability; there is no period of limitation prescribed by the legislature for initiating action for recovery of damages under section 14B. The fact that proceedings are initiated or demand for damages is made after several years cannot by itself be a ground for drawing an inference of waiver or that the employer was lulled into a belief that no proceedings under section 14B would be taken; mere delay in initiating action under section 14B cannot amount to prejudice inasmuch as the delay on the part of the department, would have only allowed the employer to use the monies for his own purposes or for his business especially when there is no additional provision for charging interest. However, the employer can claim prejudice if there is proof that between the period of default and the date of initiation of action under section 14B, he had changed his position to his detriment to such an extent that if the recovery is made after a large number of years, the prejudice to him is of an "irretrievable" nature: he might also claim prejudice upon proof of loss of all the relevant records and/or non-availability of the personnel who were, several years back in charge of*

> *these payments and provided he further establishes that there is no other way he can reconstruct the record or produce evidence; or there are other similar grounds which could lead to "irretrievable" prejudice; further, in such cases of "irretrievable" prejudice, the defaulter must take the necessary pleas in defence in the reply to the show cause notice and must satisfy the concerned authority with acceptable material; if those pleas are rejected, he cannot raise them in the High Court unless there is a clear pleading in the writ petition to that effect……….”*

32. **Under the Employees' Provident Fund Act,** Section 14B allows the Central Provident Fund Commissioner to recover "damages" from employers who fail to make timely payments of mandatory contributions to the Employees' Provident Fund (EPF), essentially acting as a penalty to incentivize compliance and ensure employees receive their full benefits by punishing employers for delayed payments; this includes contributions to the Pension Fund and Insurance Fund as well.

33. **It further appears that admittedly vide an order dated 15.03.1996 the Calcutta High Court stayed the implementation of the EPF (amendment) Ordinance 1995 until further orders in WP 593 of 1996 and the said order remained stayed till the judgment of the Apex Court on 11th November, 2003.**

34. The alleged period of default here is from 11/1998 to 02/2010 and 03/2010 to 12/2010. So the contention of the petitioner that the delay was due to an order of stay passed by the High Court and matter pending before other Courts is **prima facie substantiated.**

35. It is thus submitted that as there was no delay on the part of the petitioner/company during part of the period as alleged, no damages under Section 14B and interest under 7Q of the Act could have been claimed, imposed or demanded for the said period **(for the period from 11/1998 to November, 2003). Whether the damages is leviable for the period from December, 2003 to December, 2010 is to be freshly adjudicated by the authority concerned.**

36. In the present case, the materials on record clearly show that the part of the damages and interest there on, has been imposed for **delay caused due to connected proceedings pending before various forums/Courts.** There is no delay which can be attributed solely to the petitioner herein and as such the orders under Section 14B & 7Q of the EPF dated 21st January, 2015 **are set aside** and the matter is sent back on remand to the authority to **consider the demand afresh** in accordance with law and as per the observations in this judgment.

37. Consequently the attachment order dated 17th February, 2015 issued to the respondent bank, by the Regional Provident Fund Commissioner, Durgapur in execution of the orders under Sections 14B and 7Q of the EPF Act, **is also set aside.**

38. The petitioner's representative shall attend the hearings diligently on notice, in default the authorities shall be at liberty to proceed in accordance with law, on satisfaction as to service upon the petitioner herein.

39. WPA 5344 of 2015 stands disposed of.

40. Connected application, if any, stands disposed of.

41. Interim order, if any, stands vacated.

42. Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Shampa Dutt (Paul), J.)