(2015) 04 P&H CK 0398

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 18761 of 2008 (O&M)

Anurag Maheshwari APPELLANT

Vs

Regional Provident Fund Commissioner and Others RESPONDENT

Date of Decision : 27-04-2015

Acts Referred:

Citation : (2015) 179 PLR 467

Hon'ble Judges : Amit Rawal, J

Bench : Single Bench

Advocate : S.K. Yadav, for the Appellant; Ravi Sharma and Gautam Kaile, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Amit Rawal, J—Challenge in the present writ petition is to the demand notice dated 22.08.2008 (Annexure P-2) under Section 7Q of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as ''the Act''), which has been passed after the assessment under Section 7A of the Act on 30.06.2003 (Annexure P1). Mr. S.K. Yadav, learned counsel appearing on behalf of the petitioner contends that as of now the petitioner has deposited the entire amount and therefore, is not liable to pay interest as enshrined under Section 7Q of the Act.

2. Mr. Rajiv Sharma, learned counsel appearing on behalf of the respondents submits that language enshrined under Section 7 is clear and un-ambiguous and the petitioner is, thus, liable to pay interest.

3. I have heard learned counsel for the parties and appraised the paper book.

4. It is a matter of record that the petitioner did not deposit the contribution for the period March 2002 to May 2003 and accordingly, the petitioner was called upon vide order dated 30.06.2003, Annexure P1 to pay a sum of Rs. 8,68,586/-. The said order was passed without prejudice to the initiation of the proceedings under Section 7-C and 7Q of the Act. As a consequence thereof, the respondents

raised a demand on 22.08.2008 under Section 7Q of the Act, Annexure P-2 to pay balance dues amounting to Rs. 3,64,118 + cost charges, as envisaged under Section 7Q of the Act The petitioner in response to the aforementioned demand, enclosed the draft of Rs. 1,66,088/- which was towards part payment of the outstanding amount, under Section 7A of the Act.

5. The language of Section 7Q is clear and un-ambiguous and the same is extracted herein below:-

"7Q. Interest payable by the employer:- The employer shall be liable to pay simple interest at the rate of twelve per cent per annum or at such higher rate as may be specified in the Scheme on any amount due from him under this Act from the date on which the amount has become so due till the date of its actual payment.

Provided that higher rate of interest specified in the Scheme shall not exceed the lending rate of interest charged by any scheduled bank."

6. On perusal of the aforementioned language, it is clear that the employer is mandatorily required to pay interest in consonance to make the contribution. Since the petitioner has failed to make contribution which resulted passing of assessing order (Annexure P-1), the petitioner cannot claim exemption in payment of the interest as no provisions of any law or Act has been referred to.

7. In view of the fact that the petitioner has failed to make contribution within a time, as natural consequential effect thereof, is initiation of proceedings under Section 7Q of the Act has to entail.

8. There is no merit in the present writ petition. Accordingly, the writ petition is dismissed.