
(2015) 01 MP CK 0077
In the Madhya Pradesh High Court
Case No : W.A. No. 914 of 2014

Jain Putri Shala and Others	Vs	APPELLANT
Regional Provident Fund and Others		RESPONDENT

Date of Decision : 16-01-2015

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 14-B, 7-A, 7-Q

Citation : (2015) 144 FLR 949 : (2015) 2 LLJ 197

Hon'ble Judges : Rajendra Menon, J.; Rajendra Mahajan, J.

Bench : Division Bench

Advocate : M. Bhatti, for the Appellant; J.K. Pillai, Advocates for the Respondent

Final Decision : Allowed

Judgement

Rajendra Mahajan and Rajendra Menon, JJ.—Shri M. Bhatti, learned Counsel for the appellants.

Shri J.K. Pillai, learned Counsel for respondent Nos. 1 and 2, on advance notice.

Shri Piyush Dharmadhikari, learned Government Advocate for respondent No. 3/ State.

This appeal under section 2(1) of the Madhya Pradesh Uchchya Nyayalaya (Khand Peeth Ko Appeal) Adhiniyam, 2005 is filed being aggrieved by an order dated 17.9.2014 passed by the learned Writ Court in W.P. No. 1065/2006 and W.P. No. 1217/2001.

2. It is the case of appellant that W.P. No. 1217/2001 was filed by the petitioner in the year 2001 and the prayer made in the said writ petition was to quash the order passed by the Provident Fund Authorities vide Annexure P-2 and P-7 dated on 13.3.2000 and 3.1.2001 in the matter of imposing liability on the petitioner institute after initiating certain proceedings under section 7-A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952. It is said that this order

dated 13.2.2000 was passed by the Provident Fund authorities after certain directions were issued by the Supreme Court in an earlier round of litigation pertaining to liability for payment of provident fund dues for a particular period.

3. Shri M. Bhatti, learned Counsel for the petitioner points out that after orders were passed on 13.3.2000 by the Provident Fund authorities in the case of various aided institutes and when nothing was done by some of the institutes for complying with the orders, proceedings were initiated under section 14-B and 7-Q of the Employees' Provident Fund and Miscellaneous Provisions Act and, therefore, in the year 2006-2007 various writ petitions were filed challenging proceedings initiated and the penalty and damages imposed under sections 14-B and 7-Q of 1952 Act.

4. As far as present petitioners i.e. in W.P. No. 1217/2001 filed by the appellants is concerned, it is the case of petitioners that no proceedings against them under sections 14-B or 7-Q was initiated, therefore, they did not challenge these proceedings. But they only confined their prayer for challenging the order passed on 13.3.2000 under section 7-A. It is stated that when all the matter came up for hearing, inadvertently W.P. No. 1217/2001 was also tagged together with all other connected cases where proceedings initiated by the Provident Fund Organization under section 14-B and 7-Q was under challenge and the petition W.P. No. 1217/2001 has been dismissed without adverting to consider the question of challenging to the order dated 13.3.2000 made by the petitioner.

5. Shri M.S. Bhatti, learned Counsel invites our attention on the following observations made by the Writ Court in the consolidated order passed in all the cases on 17.9.14, as under:

"It is also noticed that the order dated 13.3.2000 passed by the Regional Provident Fund Commissioner is allowed to attain finality. And, since the statutory dues, as is apparent from the record of each petition, was deposited belatedly, let the Commissioner pass orders under sections 14-B and 7-Q of 1952 Act read with Para 32-A of Scheme, 1952." and points out that this observation is not applicable in the case of present petitioner, as the order dated 13.3.2000 had not attained finality in case of the appellant due to its challenge in the year 2001 itself in W.P. No. 1217/2001. Accordingly, Shri M. Bhatti, learned Counsel submits that in deciding the present petition of the appellant i.e. W.P. No. 1217/2001 along with the bunch of other cases which was decided on 17.9.2014 an error has occurred, and therefore, he seeks indulgence in this appeal.

6. Shri J.K. Pillai, learned Counsel points out that against order passed on 13.3.2000 a remedy of appeal to the Appellate Tribunal is available.

7. Having heard learned Counsel for the parties we find that when order impugned was passed on 13.3.2000, no forum of appeal or Tribunal was available, and now from the facts that have come on record it is clear that while deciding the writ petition on 1217/2001 along with other connected case where challenge was made to the proceedings initiated under sections 44-B and 7-Q of

the Act an error has occurred as W.P. No. 1217/2001 has been wrongly decided with the other set of cases without taking note of the fact that the order passed under section 7-A i.e. 13.3.2000 was under challenge, accordingly, it is a fit case where W.P. No. 1217/2001 should be remanded back for consideration afresh by the learned Single Bench. Accordingly, this petition is allowed. Order dated 17.9.2014 passed in W.P. No. 1217/2001 is set aside. Matter is remanded back to the learned Single Bench to take note of these facts and proceed in the matter after hearing all concerned.

With the aforesaid, the appeal stands disposed of.