

(2002) 02 PAT CK 0012
In the Patna High Court
Case No : C.W.J.C. No. 14780 of 2001

Kanishka Carbon Pvt. Ltd.

APPELLANT

Vs

The Regional Provident Fund Commr. and Others

RESPONDENT

Date of Decision : 06-02-2002

Acts Referred:

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

Citation : (2004) 3 PLJR 299

Hon'ble Judges : R.S. Garg, J

Bench : Single Bench

Advocate : S.D. Sanjay, for the Appellant; R.S. Pradhan, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Garg, J.—Heard learned Counsel for the parties.

2. The Respondents have already filed their counter.

3. The Petitioner submits that contrary to the settled principles of law and the cannons of natural justice, the order Annexure 1 was passed. He further says and submits that his application filed u/s 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 was also rejected in a manner which is unknown to law and contrary to the provisions of Section 7B of the Act.

4. Learned Counsel for the corporation submits that the proper opportunity was given to the Petitioner and as the Petitioner did not furnish the details of the labour employed by him and as the Petitioner paid the employees contribution towards the provident fund, the authority was justified in passing the order and the review has been rightly rejected.

5. After going through the order Annexure-1 which was sought to be reviewed u/s 7B of the Act, I am of the opinion that neither proper opportunity to defend was given to the Petitioner nor the material on which reliance was sought to be placed by the corporation was supplied to the Petitioner. When an authority

makes some enquiry and proposes to rely upon the material collected in the said enquiry, then the principle of natural justice demands that information of such material should always be supplied to the party against whose interest the material is proposed to be used. Learned Counsel feebly submitted that as the Petitioner did not make demand for supply of the said material or the other materials it was not necessary for the corporation to supply the material. This argument of desperation should not detain this Court unnecessarily because is not the case of the corporation that the Petitioner had some knowledge, even the slightest idea that the corporation had already collected some material and was proposing to use the same. If no knowledge about the existence of such materials can be attributed to the Petitioner, then the question of not demanding the documents cannot be raised by the corporation.

6. The order passed by the corporation as contained in Annexure-1 and Annexure-4 are quashed.

7. The corporation is free to take appropriate steps in accordance with law. le Petitioner shall appear before the comment authority on 4th March, 2002 either on the same day or within a week thereof the corporation shall issue proper notice to the Petitioner along with the material proposed to be used against the interest of the Petitioner, the Petitioner shall be given proper opportunity of hearing, if required, to prove his assertion by leading oral evidence.

8. The Petitioner shall also be entitled show to the authority that the Act does not apply to his establishment. After hearing the Petitioner, the competent authority shall pass order in accordance with law. It is however, made clear that if the Petitioner does not appear on the said date, the orders passed under Annexure-1 and Annexure-4 shall stand and this petition shall be deemed to be dismissed.