
(2009) 10 JH CK 0038

In the Jharkhand High Court

Case No : Writ Petition (S) No. 2612 of 2003

M/s. Durga Body Builders

APPELLANT

Vs

Union of India and another

RESPONDENT

Date of Decision : 06-10-2009

Acts Referred:

Citation : (2009) 123 FLR 649

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : P.P.N. Roy, for the Respondent

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—On Sr. Advocate repeated calls, nobody appears on behalf of the petitioner. However, heard Mr. P.P.N. Roy, learned Sr. Advocate appearing for the respondent No. 2.

2. The petitioner had moved this Court earlier in C.W.J.C. No. 2817 of 1996 (R) making a grievance that the establishment of the petitioner was saddled with huge amount of dues by the Assistant Provident Fund Commissioner, Ranchi in contravention of the principles of natural justice i.e. without affording an opportunity of hearing or by giving any kind of notice. The said writ petition was disposed of considering the fact that the impugned order was passed ex-parte and thereby, order contained in Annexure-6/A and the Notice for recovery were quashed by this Court subject to payment of cost of Rs. 1,000/-. The Assistant Provident Fund Commissioner, Ranchi was directed to rehear the matter in presence of the petitioner-establishment. It was specifically ordered that no notice would be given to the petitioner establishment and he should appear along with all its papers within one month next from the date before the Assistant Provident Fund Commissioner, Ranchi and on production of such document and papers by the petitioner, the Assistant Provident Fund Commissioner shall fix up a date for hearing and shall dispose of the matter within two months next

positively.

3. As it appears from the statements made in the counter affidavit that after remand, made by this Court, the matter was taken up for review and the date was fixed on 8.10.1996 but on that day, though the Counsel appeared on behalf of the petitioner but relevant records were not produced. Accordingly, the matter was adjourned till 11.11.1996. On that day, the petitioner prayed for time and accordingly, the matter was adjourned till 20.12.1996 but even on that day i.e. 20.12.1996, nobody appeared on behalf of the petitioner and the matter was adjourned for 24.1.1997. Again on this date, no record was produced and adjournment was sought, which was allowed and ultimately, the Assistant Provident Fund Commissioner, Ranchi, by impugned order dated 25.2.2002, determined the dues amounting to Rs. 2,92,622/- in absence of the petitioner. It has also been stated that the petitioner establishment refused to accept notice issued to him. The notice sent by post was returned back with endorsement made by the postal peon. Photocopy or the envelope sent to the petitioner containing the endorsement made by the postal peon is annexed as Annexure-A to the counter affidavit.

4. The petitioner has challenged the order dated 25.2.2002 passed by the Assistant Provident Fund Commissioner, Ranchi as contained in Annexure-6 to this writ petition on the ground that without hearing him, the impugned order has been passed ex-parte.

5. But from the facts stated above, it is apparent that the petitioner himself was negligent all throughout in prosecuting his case and in spite of sufficient opportunities given to him, he did not avail the same and, therefore, the Assistant Provident Fund Commissioner had no option but to pass the impugned order determining his dues.

6. Today also, nobody has appeared on behalf of the petitioner and therefore writ petition is being disposed of on the basis of the averments made in the writ petition as also in the counter affidavit and the submissions advanced by learned Counsel appearing for the respondent No. 2.

7. Since the petitioner failed to avail the opportunity of hearing provided to him as per direction made by this Court in the earlier Writ Petition and therefore, the petitioner should blame himself for his laches and negligence on his part. The respondent has not committed any wrong in passing the order impugned when the petitioner did not choose to appear before him.

8. Accordingly, I do not find any merit in this writ petition. Consequently, it is dismissed.