
(2014) 07 CAL CK 0082
In the Calcutta High Court
Case No : W.P. 16915(W)/2000

Regional P.F. Commissioner, West Bengal

APPELLANT

Vs

Sathi Traders

RESPONDENT

Date of Decision : 24-07-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 195
Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 7A,
7A(2), 7D, 7-I, 7J
Penal Code, 1860 (IPC) — Section 193, 196, 228

Citation : (2014) 143 FLR 259 : (2014) LLR 963

Hon'ble Judges : Soumen Sen, J

Bench : Single Bench

Advocate : Anil Kumar Gupta, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Soumen Sen, J.—This writ petition has been preferred by the Regional Provident Fund Commissioner, West Bengal against the order passed by the Appellate Tribunal. The determination by the appellate authority was in exercise of judicial power under the Statute. The Regional Provident Fund Commissioner-II who has preferred this writ petition is the authority against whose order an appeal was preferred by the private respondent and the appellate authority on consideration of the matter on merits allowed the appeal and the impugned order passed by the Regional Provident Fund Commissioner-II was set aside. The Regional Provident Fund Commissioner-II cannot be said to be the person aggrieved and accordingly the writ petition filed by him is not maintainable. The said authority is a part of the establishment and is exercising a quasi-judicial authority. The said authority is bound by the order passed by the appellate authority and cannot question the same by filing the writ petition. The order of the appellate authority is binding on the Regional Provident Fund Commissioner-II. The Regional Provident Fund Commissioner when decides the matter u/s 7A of the Act is vested with the power that is given to a Court. The said authority is not a

party to the lis and is only required to adjudicate and determine the amount in exercise of power conferred to such authority u/s 7A(2) of the said Act. The Tribunal is constituted u/s 7D to decide any appeal preferred to against the order of the Provident Fund Commissioner. Any person aggrieved, inter alia, by an order u/s 7A may prefer an appeal to a Tribunal. The Tribunal in exercise of the power u/s 7-I and 7J is entitled to decide such appeal in the same manner that was provided u/s 7A(2) of the said Act and any proceeding before the Tribunal in terms of the provisions referred to above shall be deemed to be a judicial proceeding within the meaning of section 193 and 228, and for the purpose of section 196 of the Indian Penal Code and the Tribunal shall be deemed the a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure. The Tribunal may after hearing the parties to the appeal pass an order thereon as it thinks fit confirming, modifying or annulling the order appealed against or may refer the case back to the authority which had passed such order with such direction as the Tribunal may think fit for a fresh adjudication or order. When the Regional Provident Fund Commissioner decides the matter u/s 7A it has a trapping of a judicial order and such authority cannot be a judge in its own cause and feel aggrieved by any order that may be passed by the appellate authority. Under the Scheme of the Act the order of the Appellate authority would be binding and final on such authorities. The Regional Provident Fund Authority adjudicating the claim even if he is unsatisfied by the order passed by the appellate authority could not be the person aggrieved u/s 7-I of the Employees' Provident Fund & Miscellaneous Provisions Act, 1952. The writ petition seems to have failed to appreciate this distinction and filed the appeal on a misconception of law.

2. The writ petition accordingly stands dismissed. There shall however, be no order as to costs.