

(2011) 07 DEL CK 0274

In the Delhi High Court

Case No : Writ Petition (C) 276 of 2011

Religare Enterprises Ltd.

APPELLANT

Vs

Labour Secretary and Others

RESPONDENT

Date of Decision : 27-07-2011

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 17

Citation : (2011) LLR 950

Hon'ble Judges : Dr. S. Muralidhar, J

Bench : Single Bench

Advocate : Harivinder Singh with Mr. S.K. Gupta, for the Appellant; Aparna Bhat, for the Respondent

Final Decision : Disposed Off

Judgement

S. Muralidhar, J.—On 17th January, 2011 this Court passed the following order:

W.P. (C) 276/2011

It is the case of the Petitioner that pending decision of an application moved by the Petitioner u/s 17 of the Employees' Provident Fund and Miscellaneous Provision Act, 1952 praying for exemption from the provisions of the Scheme, interim relaxation was granted by the Respondent No. 2 in the exercise of his power under the Act. However, inexplicably, the said relaxation has been withdrawn by Respondent No. 2 on 25th November, 2010, purportedly based on a direction issued by the Head Office of the Respondent No. 2 on 27th April, 2009, which direction obviously predates the initial grant of the aforesaid relaxation on 31st March, 2010. Counsel for the Petitioner contends that this decision of 25th November, 2010, which is a complete reversal of the previous order of 31st March, 2010, has been issued without any show cause notice or an opportunity to the Petitioner. Furthermore, none of the conditions of the order passed on 31st March, 2010 were violated by the Petitioner, and in fact the impugned order of 25th November, 2010, by which the interim relaxation has

been withdrawn, also does not rest on any ground.

Issue notice to the Respondents to show cause as to why rule nisi be not issued, returnable on 27th July, 2011.

CM No. 505/2011

Issue notice of this application to the Respondents, returnable on 27th July, 2011.

Till the next date of hearing, the impugned order dated 25th November, 2010 shall remain stayed."

2. With the consent of learned counsel for the parties, this petition has been heard finally.

3. It appears to be not in dispute that no show cause notice was issued to the Petitioner before withdrawing the relaxation by the impugned order dated 25th November, 2010.

4. In that view of the matter, the said impugned order is hereby set aside. The impugned order will now be treated as a show case notice to the Petitioner and the Petitioner will file its reply thereto before the Regional Provident Fund Commissioner ("RPFC") within four weeks from today. After giving an opportunity of being heard an order will be passed by the authority within a period of four weeks thereafter. Till such time the order is passed no coercive action will be taken against the Petitioner.

5. It will be open to the Petitioner to seek appropriate remedies as may be available to it in accordance with law, if aggrieved by such order.

6. The petition and the pending application are disposed of. Order be given dasti.