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(2011) 12 RAJ CK 0056

In the Rajasthan High Court

Case No : Civil Writ Petition No. 8083 of 2010

R.K. Khanna and Others — APPELLANT

Vs

Union of India and Others — RESPONDENT

Date of Decision : 20-12-2011

Acts Referred:

Citation : (2011) 12 RAJ CK 0056

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Judgement

Hon''ble Dr. Justice Vineet Kothari

1. In pursuance of previous order dtd.8.12.2011, today, the learned counsel for the PF Department Mr. M.L. Pareek has produced before this Court a compilation Schedule (Annex.R/3) giving details of contributions made towards FPF Account No. 10 under the Family Pension Scheme, 1995 by various teachers of respondent - Sardar School. However, he submitted that according to PF Department, the account of Rs. 20,37,327/- already furnished before this Court and vide page No. 6 of the compilation filed today, after deduction of benefits already given to 20 teachers under the FPF Scheme, the balance amount of Rs. 2,01,657/- was given to the respondent - Sardar School by cheque No. 159573 dated 19.9.2008 and according to them, therefore, nothing more remains payable under the FPF account to the petitioners- teachers or other similarly situated teachers, 61 in number since the said FPF Scheme was closed for respondent - School after the Educational Institutions lost the legal battle in the Supreme Court of India vide judgment in the case of Regional Provident Fund Commissioner Vs. Sanatan Dharam Girls Secondary School and Others,

2. On the other hand, the learned counsel for the petitioner as well as respondent No. 4 Sardar Secondary School submitted that the statement of respondent - PF Department is incorrect and not sustainable and drawing the attention of the Court towards the letter (Annex.R/3, Page 54 of the paper book), the learned counsel for the petitioner and the respondent No. 4 Sardar

Secondary School submitted that the total contribution of FPF made between the year 1993-1994 to 2002-2003 was Rs. 17,04,912/- out of which after deducting the contributions in regard to 20 teachers as per Annex.2 of the said letter amounting to Rs. 2,72,609/- , the balance amount of Rs. 14,32,303/- was liable to be paid by the respondent - PF to the respondent No. 4 - School on account of present 7 petitioners and other similarly situated teachers, total 61 in number. They submitted that out of said sum of Rs. 14,32,303/- , only a cheque of Rs. 2,01,652/- was given by the respondent - PF Department vide cheque No. 159573 dtd.19.9.2008 and thus, even now balance of Rs. 12,30,651/- is payable in the FPF account of these teachers, which if paid shall be distributed amongst 7 petitioners and other similarly situated persons, total 61 in number.

3. The learned counsel for the PF Department Mr. M.L. Pareek further submitted that while giving the account of Rs. 20,37,327/- , besides the payment of Rs. 12,35,153/- under the FPF Scheme to 20 teachers, namely, Smt. Uchchhab Kanwar and others (vide page 3 of the compilation filed today), a sum of Rs. 6,00,522/- was deducted on account of excess interest paid on Provident Fund refunds made by the respondent - Department and adding the said sum of Rs. 6,00,522/- to Rs. 12,35,153/- = 18,35,675/- , balance amount of Rs. 2,01,652/- was paid vide aforesaid cheque No. 159573 dtd.19.9.2008.

4. The deduction of the alleged excess compound interest paid by the respondent - PF Department to the extent of Rs. 6,00,522/- is a new argument now raised as a defence by the Provident Fund Department before this Court for not making payment of FPF to the present petitioners and other similarly situated teachers, 61 in number. However, no order of any competent authority, for making such deduction from the FPF fund of the respondent No. 4 - School constituted as per Clause 3 of the Employees Pension Scheme, 1995 has been produced before this Court and therefore the details of such deduction of Rs. 6,00,522/- is not known to this Court, much less, therefore, its justification or validity can be examined here.

5. FPF Scheme of 1995 clearly envisages maintaining of separate teacher-wise individual accounts and in view of admitted contributions received from these 7 petitioners and other similarly situated teachers of respondent - Sardar School, the respondent - PF Department has to account for refund of their FPF amount on individual account basis and they cannot contend that entire corpus was squared up with the payment of Rs. 20,37,327/- which includes essentially the sum of Rs. 12,35,153/- as pension benefit paid to the 20 teachers of respondent - School already retired, Smt. Uchchhab Mohnot and others who were given FPF benefit under the 1995 Scheme up to 2006-2007. Payment to such beneficiaries, namely, 20 teachers under the FPF Scheme, 1995 and deduction of Rs. 6,00,522/- on account of alleged excess compound interest paid on provident fund refunds, cannot cause any prejudice to the present petitioners and similarly situated persons and their individual accounts cannot be squared up in this manner and the respondent -PF Department is bound to account for benefit of

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FPF amount to them. Therefore, the contention raised by the learned counsel for the respondent PF Department in this regard is liable to be rejected and the same is accordingly rejected.

6. There is no other concrete and plausible reason or defence on the part of the respondent - PF Department to deny or rebut the claim made by the respondent - Sardar School vide Annex.R/3 communication dtd.28.4.2009 (Page 54 of paper book), according to which a sum of Rs. 12,30,651/- was demanded from the respondent - PF Department so that the same may be paid to the present 7 petitioners and other similarly situated teachers total 61 in number under the FPF Scheme, 1995, which was admittedly applicable to these persons during the relevant period and their contributions including employer''s contribution and Central Government Contribution for them was received by respondent - PF Department.

7. The learned counsel for the respondent - School has already given undertaking before this Court that if the said amount of Rs. 12,30,651/- is paid to the respondent - School by the respondent - PF Department, the same shall be immediately paid to the present 7 petitioners and other similarly situated persons, 61 teachers total in number, against their FPF claims.

8. Accordingly, the respondent - PF Department represented by Regional Provident Fund Commissioner and Assistant Commissioner, Employees Provident Fund, Jodhpur are directed to make payment of said sum of Rs. 12,30,651/- to the respondent No. 4 - Sardar School on account of FPF benefit to be paid to the present 7 petitioners and other similarly situated teachers, 61 in number within a period of one month from today. If the said amount is not paid within one month from today, the same shall bear further interest @9% per annum.

9. The matter may be listed for appropriate further orders now on 12.1.2012.

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