

(2024) 02 OHC CK 0258

In the Orissa High Court

Case No : Writ Petition (C) No. 4133 Of 2024

Sunil Kumar Tanti

APPELLANT

Vs

Assistant Provident Fund Commissioner, BBSR & Another

RESPONDENT

Date of Decision : 28-02-2024

Acts Referred:

Citation : (2024) 02 OHC CK 0258

Hon'ble Judges : A.K. Mohapatra, J

Bench : Single Bench

Advocate : B.K. Sahoo, Aurovindo Mohanty

Final Decision : Disposed Of

Judgement

A.K. Mohapatra, J

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned counsel for the Opposite Parties. Perused the Writ Petition as well as the documents annexed thereto.
3. The present Writ Petition has been filed by the Petitioner with the following prayer :

"It is therefore most fervently prayed that the Hon'ble court may be pleased to admit the application and issue show cause to the opp.parties and after hearing quash the order dt.1.12.2023 (annexure-5) and direct the opp.party No.1 to proceed with the enquiry and determine the PF dues of the petitioner and recover the same as per law under the Act. From the employer and pay to the petitioner with allied benefits.

And any other writ and/or orders may be passed as may deem fit and proper for the disposal of the case."

4. Learned counsel for the Petitioner submitted that being aggrieved by the

conduct of the Regional Provident Fund Commissioner in not taking any action against the employer, who is not depositing the EPF dues, the Petitioner has approached this Court by filing the present writ application. He further contended that the Assistant Provident Fund Commissioner vide letter dated 13.10.2023 under Annexure-4 wrote a letter to the Opposite Party No.2. In the context of non deposit of EPF dues in respect of the Petitioner and accordingly in the very same letter the Opposite Party No.2 was advised to deposit the EPF & allied dues from 10/1986 onwards in respect of the present petitioner, failing which action shall be taken against the Opposite Party No.2.

5. In reply to the aforesaid letter, the Opposite Party No.1 wrote a letter to the Assistant Provident Fund Commissioner on 31.10.2023 under Annexure-6 wherein it has been intimated that a review petition bearing RVWPET No.399 of 2023 has been preferred before this Court. Further it is stated that since the same is sub-judice before this Court it would not be appropriate to proceed in the matter. In reply to the above, learned counsel for the Petitioner submitted that although a review has been filed, the employer is not taken any action to pay the dues. He further contended that there is no interim order passed by this Court not to proceed further in the matter. In such background, learned counsel for the Petitioner submitted that the Petitioner has already approached the Regional Provident Fund Commissioner, Bhubaneswar by filing a representation under Annexure-7 dated 12.12.2023, the same is stated to be pending before him for final consideration.

6. Learned counsel for the Opposite Parties on the other contended that in the meantime a 7-A proceeding has been initiated. However, due to pendency of the aforesaid review petition, the Regional Provident Fund authorities are not in a position to proceed further in the matter awaiting the final decision in the aforesaid review petition. In such view of the matter, learned counsel for the Regional Provident Fund Commissioner submitted that the present writ application is premature and accordingly, the same should be dismissed.

7. Having heard the learned counsels appearing for the respective parties and on a careful examination of the materials on record and keeping in view the limited nature of the grievance involved in the present writ application, this Court deems it proper to dispose of the writ application at the stage of admission by directing the Opposite Party No.1 to proceed further in the matter in accordance with law and dispose of the representation of the Petitioner under Annexure-7 within a period of eight weeks from the date of communication of a certified copy of this order. It is further directed that the proceeding initiated against the Opposite Party No.1 shall be subject to any interim order if the same is passed in the meantime in review petition No.399 of 2023. Unless such interim order is produced before the authorities, the authorities shall proceed with the matter.

8. With the aforesaid observations/ directions, the writ application stands disposed of.

9. Issue urgent certified copy of this order as per Rules.

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