

(2010) 12 UK CK 0045

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No's. 577 of 2004 and 1270, 1271, 1272, 1273, 1274, 1275, 1282 and 1283 of 2009

U.P. State Road Transport Corporation

APPELLANT

Vs

Assistant Provident Fund Commissioner and Another

Uttarakhand Transport Corporation Vs Employees Provident
Fund Organization and Another

RESPONDENT

Date of Decision : 21-12-2010

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 1, 14, 3, 7

Citation : (2010) 12 UK CK 0045

Hon'ble Judges : Brahma Singh Verma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.S. Verma, J.—Since the controversy involved in all these writ petitions is almost similar, therefore, for the sake of convenience, they are being decided by this common order.

2. In Writ Petition (M/S) No. 577 of 2004, the Petitioner has sought a writ in the nature of certiorari quashing the impugned order dated 8-4-2004 passed by the Respondent No. 1 annexed as Annexure No. 1 to the writ petition, whereby an order u/s 7A of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (for short the Act) has been passed directing the Petitioner to remit the entire dues and submit statutory returns in respect of its contract employees.

3. In W.P.M.S. No. 1087 of 2003, the Petitioner has sought a writ in the nature of certiorari for setting aside the impugned order dated 9-6-2003 passed by the Respondent u/s 14B of the Act against the Petitioner.

4. In Writ Petition (M/S) No. 1270 of 2009, the Petitioner has sought a writ in the nature of certiorari quashing the impugned order dated 30-1-2009 passed by the Respondent No. 1 annexed as Annexure No. 1 to the writ petition, whereby an

order under Sections 14B and 7Q of the Act has been passed against the Petitioner as mentioned in the impugned order.

5. In Writ Petition (M/S) No. 1271 of 2009, the Petitioner has sought a writ in the nature of certiorari quashing the impugned order dated 30-1-2009 passed by the Respondent No. 1 annexed as Annexure No. 1 to the writ petition, whereby an order under Sections 14B and 7Q of the Act has been passed against the Petitioner as mentioned in the impugned order.

6. In Writ Petition (M/S) No. 1272 of 2009, the Petitioner has sought a writ in the nature of certiorari quashing the impugned order dated 30-1-2009 passed by the Respondent No. 1 annexed as Annexure No. 1 to the writ petition, whereby an order under Sections 14B and 7Q of the Act has been passed against the Petitioner as mentioned in the impugned order.

7. In Writ Petition (M/S) No. 1273 of 2009, the Petitioner has sought a writ in the nature of certiorari quashing the impugned order dated 30-1-2009 passed by the Respondent No. 1 annexed as Annexure No. 1 to the writ petition, whereby an order under Sections 14B and 7Q of the Act has been passed against the Petitioner as mentioned in the impugned order.

8. In Writ Petition (M/S) No. 1274 of 2009, the Petitioner has sought a writ in the nature of certiorari quashing the impugned order dated 30-1-2009 passed by the Respondent No. 1 annexed as Annexure No. 1 to the writ petition, whereby an order under Sections 14B and 7Q of the Act has been passed against the Petitioner as mentioned in the impugned order.

9. In Writ Petition (M/S) No. 1275 of 2009, the Petitioner has sought a writ in the nature of certiorari quashing the impugned order dated 30-1-2009 passed by the Respondent No. 1 annexed as Annexure No. 1 to the writ petition, whereby an order under Sections 14B and 7Q of the Act has been passed against the Petitioner as mentioned in the impugned order.

10. In Writ Petition (M/S) No. 1282 of 2009, the Petitioner has sought a writ in the nature of certiorari quashing the impugned order dated 30-1-2009 passed by the Respondent No. 1 annexed as Annexure No. 3 to the writ petition, whereby an order under Sections 14B and 7Q of the Act has been passed against the Petitioner as mentioned in the impugned order.

11. In Writ Petition (M/S) No. 1283 of 2009, the Petitioner has sought a writ in the nature of certiorari quashing the impugned order dated 30-1-2009 passed by the Respondent No. 1 annexed as Annexure No. 3 to the writ petition, whereby an order under Sections 14B and 7Q of the Act has been passed against the Petitioner as mentioned in the impugned order.

12. In Writ Petition (M/S) No. 1330 of 2010, the Petitioner has sought a writ in the nature of certiorari quashing the impugned notices dated 30-9-2009 and 11-5-2009 issued by Regional Provident Fund Commissioner-Respondent No. 2 annexed as Annexure No. 1 to the writ petition, whereby an order under Sections

14B and 7Q of the Act has been passed against the Petitioner as mentioned in the notices impugned in the writ petition.

13. Learned Counsel for the Respondents-Employees Provident Fund Organization has raised a preliminary objection that alternate statutory remedy of filing appeal u/s 7I of the Act is available to the Petitioners, therefore, the Petitioners may be relegated to avail the said remedy before the Tribunal.

14. I have perused the provision of Section 7I of the Act, which reads as under:

7I. Appeals to Tribunal.- (1) Any person aggrieved by a notification issued by the Central Government, or an order passed by the Central Government or any authority, under the proviso to Sub-section (3), or Sub-section (4) of Section 1, or Section 3, or Sub-section(1) of Section 7A, or Section 7B [except an order rejecting an application for review referred to in Sub-section (5) thereof], or Section 7C, or Section 14B, may prefer an appeal to a Tribunal against such notification or order.

(2) Every appeal under Sub-section (1) shall be filed in such form and manner, within such time and be accompanied by such fees, as may be prescribed.

15. Learned Counsel appearing for the Petitioner Mr. Ashish Joshi, Advocate, has vehemently urged that the Uttarakhand Transport Corporation has been subjected to entire recovery of amounts for the previous period, i.e. prior to creation of Uttarakhand Transport Corporation, which was to be recovered from the U.P.S.R.T.C. Instead of recovering that amount from the U.P.S.R.T.C., the recovery is being made of the entire amounts from the Uttarakhand Transport Corporation.

16. A perusal of the records of the above writ petitions reveals that this Court has passed interim order dated 8-4-2004 in Writ Petition (M/S) No. 577 of 2004 as well as interim order dated 24-10-2003 in Writ Petition (M/S) No. 1087 of 2003 and interim order dated 8-9-2010 in Writ Petition No. 1330 of 2010 in favour of the respective Petitioners.

17. In view of the provision of Section 7I of the Act, the Petitioners are given liberty to file appeal before the Tribunal concerned within a period of 30 days from today. Interim orders, referred to above, passed by this Court shall continue for a period of 30 days. The Petitioners may raise either all or any of the grounds in the appeal, which have been raised by them in these writ petitions. Accordingly, all the writ petition are dismissed on the ground of statutory alternate remedy available to the Petitioners.