
(2009) 12 AHC CK 0293
In the Allahabad High Court
Case No : C.M.W.P. No. 58304 of 2008

U.P. State Sugar and Cane Development Corporation	APPELLANT
Vs	
Regional Provident Fund Commissioner	RESPONDENT

Date of Decision : 11-12-2009

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 7A, 7B

Citation : (2010) 5 AWC 5079

Hon'ble Judges : Satya Poot Mehrotra, J

Bench : Single Bench

Advocate : Rajendra Kumar Srivastava and Y.K. Srivastava, for the Appellant;
Dhananjay Awasthi and Amit Negi, for the Respondent

Final Decision : Dismissed

Judgement

Satya Poot Mehrotra, J.—The present application has been filed seeking review of the order dated 12.11.2008 whereby the writ petition was dismissed on the ground of availability of alternative remedy to the Petitioner.

2. The said order dated 12.11.2008 is reproduced below:

Heard Sri Rajendra Kumar Srivastava, learned Counsel for the Petitioner and Sri Amit Negi, learned Counsel for the Respondent.

The present writ petition has been filed by the Petitioner against the order dated 29th August, 2008 (Annexure 8 to the writ petition) passed u/s 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the order dated 30th September, 2008 (Annexure 10 to the writ petition) passed u/s 7B of the said Act.

It is not disputed that against the said orders, the Petitioner has an alternative remedy of filing Appeal u/s 71 of the said Act.

In view of the alternative remedy available to the Petitioner, the Court is not inclined to entertain the writ petition.

The writ petition is, accordingly, dismissed on the ground of availability of alternative remedy to the Petitioner.

3. Sri Rajendra Kumar Srivastava, learned Counsel for the Petitioner submits that the order dated 30.9.2008 (Annexure 10 to the writ petition) passed u/s 7B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, was under challenge in the said writ petition. The view expressed by this Court in the aforesaid order dated 12.11.2008 that an appeal u/s 7I of the aforesaid Act could be filed against the said order dated 30.9.2008 also, is not correct, and the matter requires review by this Court.

4. I have considered the submissions made by Sri Rajendra Kumar Srivastava, learned Counsel for the Petitioner, and I find myself unable to accept the same.

5. In case, the view of this Court as expressed in the aforesaid order dated 12.11.2008 regarding the availability of alternative remedy to the Petitioner against the order dated 29.8.2008 (Annexure 8 to the writ petition) passed u/s 7A of the aforesaid Act, and the order dated 30.9.2008 (Annexure 10 to the writ petition) passed u/s 7B of the aforesaid Act, was not acceptable to the Petitioner, it was open to the Petitioner to challenge the said order dated 12.11.2008 before the appropriate forum.

6. It is well-settled that a review petition cannot be an appeal in disguise. [See: Lal Mohammad v. S.D.O., Bareilly and Anr. 1959 ALJ 223 ; Smt. Savitri Devi v. Lal Chand (Dead) and Ors. 2004 (55) ALR 690 : 2004 ALJ 3445 (para 46)]

7. The grievance of the Petitioner against the view expressed by this Court on the question of availability of alternative remedy of appeal u/s 7I of the aforesaid Act cannot, therefore, be raised by filing review petition. The appropriate course for the Petitioner was to challenge the order of this Court before the appropriate forum.

8. The review petition seeking to question the view expressed by the Court in the said order dated 12.11.2008 is not maintainable, and the same is liable to be dismissed.

The review petition is accordingly dismissed.