

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.05.2018

C O R A M

THE HONOURABLE Mr.JUSTICE C.V.KARTHIKEYAN

W.P.No.12655 of 2018

and

W.M.P.Nos.14769 & 14770 of 2018

1.CSI Diocese of Vellore,

Rep. by its Hon.Secretary

Rev.Sampath Sandhanandan,

3/1A, Anna Salai, Vellore-632 001.

2.Katpadi Industrial Institute,

Rep. by its Director,

P.B, No.705, No.20,

Chittoor Road, Katpadi-632 007.

.. Petitioners

Vs.

1.Employees' Provident Fund Organization,

Rep. by its Regional Provident Fund

Commissioner, Regional Office,

37, Royapettah High Road,

Opposite Swagat Hotel, Chennai-600 014.

2. Assistant Provident Fund Commissioner,

Employees Provident Fund Organisation

Regional Office S □ I, TNHB, Phase □ III,

Sathuvachari, Vellore-632 009.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records connected with the order no TB/VLR/38023/SCD/2017-18/ 14B(08/1982 to 11/2014)/107 dated 20.03.2018 passed by the second respondent calling upon the second petitioner to pay a sum of Rs.22,43,873/- as damages under Section 14B of the Provident Fund and Miscellaneous Provisions Act, 1952 hereinafter referred to as the "Act" and to quash the same.

For Petitioners : Mr.Ravi Kumar,  
Senior Counsel  
for Mr.Paul and Paul

For Respondents : Mr.V.Sundareswaran,  
Standing Counsel (EPF)

O R D E R

The petitioners have come before this Court challenging the impugned order dated 20.03.2018 passed by the Assistant Provident Fund Commissioner/ second respondent, wherein the Assistant Provident Fund Commissioner had imposed a sum of Rs.22,43,873/- as penal damages under Section 14-B of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 [hereinafter referred to as "the Act"], which is the order challenged in this writ petition and also a sum of Rs.24,61,990/- as interest under Section 7-Q of the Act, which is the order challenged in W.P.No.12656 of 2018.

2.They had been earlier round of writ petitions before this Court, wherein, this Court was pleased to remit the matter back for reconsideration. The orders passed and mentioned above were pursuant to such reconsideration.

3.It is stated by the learned Standing Counsel for the respondents that the petitioners were also represented during the proceedings.

4.It is stated by the learned Senior Counsel for the petitioners that even though there is an appeal provision, with respect to imposition of damages under Section 14-B of the Act and which appeal provision is provided under Section 7-I of the Act, very unfortunately, the Tribunal is actually not functioning and consequently, the petitioners are handicapped by taking recourse to appeal remedies and as therefore, approached this Court under Article 226 of the Constitution of India. There are no appeal provisions provided in an order passed under Section 7-Q of the Act.

5.The learned Standing Counsel for the respondents took instructions and stated that in so far as the order imposing damages under Section 14-B of the Act is concerned, even though the Tribunal is not functioning, still appeal petitions are being received and the Act also provides that applications can be made to waive payment of any interim amount as a precondition to file or hear the appeal.

6.Consequently, with respect to Writ Petition No.12655 of 2018, the petitioners may approach the competent appellate authority and file necessary appeal and even if the period of appeal has expired by this time, the petitioners may plead the pendency of the writ petition before this Court as a bona fide proceedings and seek extension of period of limitation. They may also file application for waiving to deposit of amount as a pre-condition. At any rate the appeal should be presented on or before 31.05.2018 before the competent appellate authority. This leaves Writ Petition No.12656 of 2018 for further consideration.

7.Till the application is filed on 31.05.2018, which is the outer date for filing appeal and also till the applications are actually considered by the Appellate Authority, there will be an order of interim stay.

8. With these observations, this writ petition stands disposed of. Consequently connected miscellaneous petitions are closed. No costs.

17.05.2018

abr/maya

Index : yes/no

Speaking/Non speaking order

To

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C.V.KARTHIKEYAN, J.

abr