

(2007) 09 CAL CK 0054

Calcutta High Court

Case No: Writ Petition No. 13660 of 1999 (W) and C.A.N. No. 6227 of 1999

Khushiram Agarwal

APPELLANT

Vs

Employees" Provident
Fund Organisation
and Others

RESPONDENT

Date of Decision: Sept. 21, 2007

Citation: (2007) 115 FLR 1158 : (2008) 1 LLJ 841

Hon'ble Judges: Jayanta Kumar Biswas, J

Bench: Single Bench

Advocate: Nemai Chandra Betal, for the Appellant; Anil Kumar Gupta, for the Respondent

Final Decision: Dismissed

Judgement

Jayanta Kumar Biswas, J.

The petitioner took out this writ petition dated June 25, 1999 alleging that the third respondent (the Authorized Officer, Employees" Provident Fund Organization, Sub-Regional Office, Howrah-I) illegally arrested him on June 21, 1999, and that that respondent initiated several certificate cases for recovery of Rs. 3,43,127.51 on account of. provident fund dues, in violation of the principles of natural justice and without jurisdiction.

2. By order dated June 28, 1999 the writ petition was admitted and an order was made that the petitioner should be released forthwith. He was directed to pay 25% of the total dues within a fortnight and the balance 75% in twelve monthly instalments. Counsel for the; petitioner submits that probably the amounts were paid in terms of order of the Court. In paras 18 and 19 of the writ petition the petitioner admitted that the amount for which the certificate cases were initiated was due and: payable on account of provident fund contributions. His proprietorship concern was governed by the provisions of the Employees" Provident Funds and Miscellaneous Provisions Act, 1952 and the schemes framed thereunder.-His case is that when he prayed for thirty-six instalments to pay the

dues, the authorities granted him only twelve monthly instalments and thereafter on the ground that he failed to pay the amount, steps were taken for arresting and" detaining him in custody. His contention is that he was illegally arrested and the certificate cases were initialed in violation of the principles of natural justice.

3. I do not find any merit in the contentions raised in the writ petition. The petitioner was under an unqualified statutory obligation to pay the provident fund dues. Admittedly, he failed and neglected to pay the dues which were payable under the provisions of law. The authorities were empowered to arrest and detain him in custody in connection with the certificate cases initiated during the period from 1990 to 1994.

4. He did not have any right to pay the statutory contributions in thirty-six instalments. He did not deposit the contributions for the periods from 8/89 to 9/90; 2/91 to 10/91 and 11/94 to 6/95. It is apparent that the authorities showed uncalled for leniency. But even then he was not inclined to pay the dues. Be that as it may, order was made by this Court permitting him to pay the dues in instalments.

5. Needless to say that if he has paid the dues, then in connection with the certificate cases no further coercive measure shall be taken against him. If the dues have not been paid in full or if any amount is payable in connection with the certificate cases for the periods in question, then the authority will be free to proceed against the petitioner in accordance with law. I do not find any reason to hold that the authority acted in violation of the principles of natural justice or without jurisdiction.

6. For these reasons, the writ petition is dismissed. There shall be no order for costs in it.

In view of this order nothing remains to be decided in the application (CAN No. 6227 of 1999) taken out by the petitioner for further order; and that application, not appearing today, is treated as on the day's list, by consent of counsel for the parties, and it shall be deemed to be disposed of.

Urgent certified xerox copy of this order shall be supplied to the parties, if applied for, within three days from the date of receipt or the file by the Section concerned.