

August 19,  
2020  
24  
(pk/sd)

**MAT 499 of 2020**  
**CAN 4772 of 2020**  
**CAN 4771 of 2020**

**(Via Video Conference)**

Mr. Soumya Majumder,  
Mr. Victor Chatterjee,  
Ms. Sanjukta Dutta  
... for the appellant.

Dr. Sib Chandra Prasad  
... for the P. F. Authority.

With the consent of the parties, the appeal is treated as on day's list.

The appellant has filed the present appeal assailing the impugned order dated 11.03.2020 thereby directing the appellant/respondent company, inter alia, to secure a sum of Rs.51,61.015/-. It was also stated in the order that the amount shall not be construed to be any assessment of damages on the part of the petitioner or an admission of liability on the part of the respondent no. 2 and also directed the petitioner to proceed afresh without being influenced by any observation. Relevant portion of the order is quoted below :

"It is also made clear that direction for securing the said amount of Rs.51,61.015/- shall not be construed to be any assessment of damages on the part of the petitioner or an admission of liability on the part of the respondent no.

2.

I have not gone into the merits of the case and the petitioner shall proceed afresh without being influenced by any observation made herein for reassessing the damages under Section 14B of the 1952 Act.

In the event, the amount is secured by 30.03.2020, this application shall stand disposed of.”

Mr. Majumdar, learned advocate appearing for the appellant/respondent company submits that the Regional Provident Fund Authority issued a notice dated 2<sup>nd</sup> May, 2019 thereby directing the appellant company to deposit Rs. Rs.51,61.015/- towards the damages under Section 14B of the 1952 Act. Assailing that order the appellant/company preferred a statutory appeal before the appellate authority. The appellate authority by the order dated 2<sup>nd</sup> August, 2019 set aside the order dated 2<sup>nd</sup> May, 2019 demanding Rs.51,61.015/- towards damages. The appellate authority also directed the Provident Fund Authority to pass a fresh order in the light of the direction given by the Hon’ble High Court vide order dated 31<sup>st</sup> July, 2018 in W. P. No. 8527(W) of 2015. Unfortunately, without complying the direction of the appellate authority, the Provident Fund Authority filed the writ petition assailing the said order dated 2<sup>nd</sup> August, 2019. In the said writ petition by the impugned order dated 11<sup>th</sup> March, 2020 the appellant company was directed to secure a sum of Rs.51,61.015/- as quoted above.

Mr. Majumdar submits that no fresh demand has been raised by the Provident Fund Authority as per the direction of the appellate authority where the impugned order of demand dated 2<sup>nd</sup> May, 2019 was set aside. Therefore,

question of depositing security to the tune of Rs.51,61.015/- as demanded by the impugned order dated 2<sup>nd</sup> May, 2019 which was subsequently set aside by the appellant authority by the order dated 2<sup>nd</sup> August, 2019 does not arise. Accordingly, the appellant company is not liable to give any security unless the fresh demand is made to that effect.

Mr. Majumdar also draws our attention towards the impugned order dated 11<sup>th</sup> March, 2020 and further emphasizes that by the impugned order the learned Judge directed the Provident Fund Authority to proceed afresh without being influenced by any observation made herein for reassessing the damages under Section 14 B of 1952 Act. Therefore, Mr. Majumdar further contends that since no demand is raised by the Provident Fund Authority as directed by the appellant authority which was affirmed by the learned trial court's order dated 11<sup>th</sup> March, 2020, the question of securing of Rs.51,61.015/- does not arise. Therefore, in conclusion, Mr. Majumdar submits that the Court should set aside the impugned order dated 11.03.2020 thereby directing the Provident Fund Authority to proceed afresh to reassess the damages under Section 14 B of 1952 Act.

Per contra, Mr. Prasad, learned advocate appearing for the Provident Fund Authority submits that the appellant company should secure the amount as directed by the impugned order dated 11.03.2020.

On the submissions of the learned advocates and after perusing the records, we find that that the demand towards damages as raised by the order dated 2<sup>nd</sup> May, 2019 was set aside by the appellate authority vide its order dated

2<sup>nd</sup> August, 2019. Therefore, there is no demand in the eye of law unless the Provident Fund Authority proceeds afresh against the appellant company for raising the demand towards damage under Section 14 B of 1952 Act.

Considering the above discussions and after perusing the records, we are not at all satisfied with the submission advanced by Mr. Prasad. On the other hand, we find some substance in the argument of Mr. Majumdar.

Therefore, in our considered view, the impugned direction for securing a sum of Rs.51,61,015/- as directed by the impugned order cannot be sustained in the eye of law. As such, there is no demand ever raised pursuant to the order of the appellate authority dated 2<sup>nd</sup> August, 2019. We also cannot shut our eyes that in the impugned order the learned Judge also directed the Provident Fund Authority to proceed afresh for raising the demand under Section 14 B of the 1952 Act.

Therefore, in our considered view, the impugned order dated 11.03.2020 cannot be sustained in the eye of law as well as the facts and circumstances of the case.

Accordingly, the impugned order dated 11.03.2020 is quashed and set aside.

We direct the Provident Fund Authority to pass a fresh order to reassess the damages under Section 14 B of the 1952 Act. Such exercise shall be completed within two months from the date of receiving of this order.

With this direction, this appeal as well as the connected applications are allowed.

In view of the above order, the writ petition being W. P. A. 276 of 2020 also stands disposed of.

Leave is granted to the appellant to file certified copy of the impugned order within two weeks after resumption of normal functioning of the Court.

**(Samapti Chatterjee, J.)**

**(Hiranmay Bhattacharyya, J.)**