

**BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, ROUSE
AVENUE, DISTRICT COURT COMPLEX, DELHI.**

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

ATA No.D-1/29/2021

M/s ARC Services

Appellant

Vs.

Union of India
EPFO, Delhi East,
RPFC, Delhi East

Respondent No.1.
Respondent No.2.
Respondent No.3.

ORDER DATED:-29.09.2021

Present:- Shri L. B Rai, Ld. Counsel for the Appellant.
Shri Arvind Kr. Verma, Ld. Counsel for the Respondent No.1,2
and 3.

After hearing of argument on admission of the appeal and the petition filed by the appellant seeking a direction of interim stay on execution of the impugned order passed under section 14B of the Act, the matter has been posted for orders today.

During the hearing the learned counsel for the appellant submitted that the APFC, Delhi RO, during the inquiry under challenge had grossly violated the principles of natural justice and passed the impugned order without affording a proper opportunity for defence to the establishment. Hence the order passed by the commissioner discharging the quasi judicial function is illegal and can not sustain in the eye of law. He thereby submitted that the matter be remanded for reconsideration and fresh inquiry after giving due opportunity to the establishment to put forth it's defence. To fortify his argument the learned counsel submitted that after receipt of summon the authorized representative had appeared and participated in the inquiry on several dates except on 22/4/21 on account of the out break of the second wave of Covid. The matter was adjourned to 4/5/21.on that day though the appellant attempted to participate in the virtual hearing by logging in through the link provided, none from the side of the department participated. Thereafter the matter was adjourned to 2/6/21 and by e-mail appellant was directed to appear before the commissioner, which was complied. After that hearing commenced on other dates virtually and each date link for participation was shared to the appellant. On 26/7/21 the case was adjourned to 9/8/21. But no link for virtual hearing was shared with the appellant for 9/8. On the contrary, on 9/8/21 the commissioner passed the impugned order, which was communicated on 11/8/21, thereby denying opportunity to the appellant for hearing on 9/8/21.

The learned counsel by filing the order of the Hon'ble High Court of Delhi passed in WP(C)10026/21 submitted that the order passed by the commissioner in the same proceeding u/s 7Q being challenged before the High Court, an order has been passed remanding the matter for fresh hearing with observation that the principles of natural justice has been violated. The impugned order thus needs to be set aside at this stage and be remanded for fresh inquiry.

The learned counsel for the respondent objected to the submission on the ground that the matter was adjourned to 9/8/21 for passing of order and not for further hearing. Hence no link was shared and in that view of the matter there was no occasion for violation of natural justice.

At this stage the LCR is not before the Tribunal to form any opinion on the submission of the appellant. Hence it felt desirable to call for the LCR of the proceeding to be produced within one week from the date of communication of the order after which the matter will be heard on admission and prayer for stay as made by the appellant. Call for the LCR and list the matter on 17.11.2021 for the purpose as indicated above. The interim order passed on the previous date shall continue till then.

Presiding Officer