

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) Nos.8781-8782/2012

(From the judgement and order dated 24/03/2011 in WPC No.1891/2011 and order dated 22/11/2011 in RP No.117/2011 of The HIGH COURT OF M.P AT GWALIOR)

SURYA ROSHNI LTD.

Petitioner(s)

VERSUS

EMP.PROVIDENT FUND & ANR.

Respondent(s)

(With appln(s) for c/delay in filing SLP, c/delay in refiling SLP, prayer for interim relief and office report)

With S.L.P. (C) Nos.11438-11439 of 2012  
(With office report)

S.L.P. (C) Nos.11440-11441 of 2012  
(With office report)

Date: 12/04/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. GOKHALE  
HON'BLE MR. JUSTICE MADAN B. LOKUR

For Petitioner(s) Mr. Shekhar Naphade, Sr. Adv.  
In SLP 8781-82/2012: Mr. Gagan Gupta, Adv.  
Mr. Harvinder Singh, Adv.

In SLP 11438-39/2012 Mr. Raghenth Basant, Adv.  
and 11440-11441/2012: Ms. Liz Mathew, Adv.  
Mr. Salman Hashmi, Adv.  
Ms. Sana Hashmi, Adv.

For Respondent(s) Ms. Aparna Bhat, Adv.  
Mr. Pukhrabam Ramesh Kumar, Adv.  
Mr. Ardhendumauli Kumar Prasad, Adv.  
Mr. Balraj Dewan, Adv.  
Mr. Rajeev Kumar Gupta, Adv.

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UPON hearing counsel the Court made the following  
O R D E R

Mr. Shekhar Naphade, learned senior counsel appears for the petitioner in S.L.P. (C) Nos.8781-8782 of 2012, Mr. Raghenth Basant, learned counsel appears for the petitioners in S.L.P. (C) Nos.11438-11439 of 2012 and S.L.P. (C) Nos.11440-11441 of 2012. Ms. Aparna Bhat, learned counsel appears for the respondent Provident Fund Commissioner in all the matters.

2. Delay condoned.

3. These Special Leave Petitions seek to challenge the orders of the Madhya Pradesh High Court which have declined to interfere in the orders passed by the Employees' Provident Fund

Appellate Tribunal and Assistant Provident Fund Commissioner, Gwalior whereunder conveyance allowance and special allowance were included in the definition of 'basic wages' for the purposes of payment of Provident Fund Contribution.

4. By order dated 13th July, 2012, another Bench of this Court has granted stay of the impugned order by directing the petitioners to deposit 60% of the amount demanded after getting credit to the amount already paid. We are informed that the amount has been deposited with the Provident Fund office concerned.

5. Ms. Aparna Bhat, learned counsel for the respondents has brought to our notice that in another Special Leave Petition bearing No.5260 of 2008 seeking to challenge an order of Calcutta High Court leave has been granted. The High Court had not included the special allowance in the concept

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of 'basic wages', and by its order in SLP (C) 5260 of 2008 (now numbered as Civil Appeal No.6221 of 2011), this Court has stayed the order passed by the High Court. She, therefore, submits that thus two contrary orders are operating in the same field, and the issue should be sorted out early.

6. We quite see the merit of the submission. Hence, though we grant leave in these special leave petitions, let all these appeals be listed alongwith Civil Appeal No.6221 of 2011 for final hearing in the second week of August, 2013. In the meanwhile the petitioners will join two of their employees to represent the employees, and they will be served in the meanwhile. No separate formal order in this regard is required. All the parties are expected to complete the pleadings in the meanwhile.

7. Pending disposal of the present appeals, the interim order granted by this Court earlier will continue to operate. We, however, add that the Provident Fund Commissioner may proceed to make the assessment but no demand will be raised thereon.

[ Alka Dudeja ]  
A.R.-cum-P.S.

[ Sneh Lata Sharma ]  
Court Master