

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL- CUM - LABOUR COURT, ERNAKULAM.

Date: 09-03-2026

Present: SUSHIL KUMAR-II,  
PRESIDING OFFICER

Appeal No.187/2018

**BETWEEN**

M/s.Ernakulam Regional Co-operative Milk  
Producers Union Ltd.,  
Represented by its Dairy Manager,  
Thrissur Dairy,  
Ramavarmapuram-680 631.

: 1<sup>st</sup> Party/Appellant

**AND**

The Assistant Provident Fund Commissioner  
Employees Provident Fund Organization,  
36/685A, Bhavishyanidhi Bhavan,  
Kaloor, Kochi – 682017 & 49 Other Contractors

: II Party/Respondent

**Appearance:**

For the Appellant : M/s. B.S.Krishnan Associates, Advocates  
For the Respondent : Mr. Thomas Mathew Mellimoottil, Advocate

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The present appeal has been filed by the Appellant against the order of the Assistant PF Commissioner, Kochi No. KR/KC/9981-E/Enf.IV(4)/2017-18/2146 dated 24.05.2018 by which dues amounting to Rs.18,02,732/- was saddled against the Appellant u/s.7A of the EPF & Miscellaneous Provisions Act, 1952.

2. The appellant is a co-operative society registered under Kerala Co-operative Societies Act and engaged in procuring, processing and marketing milk products in revenue districts. It is covered under the provisions of Employees Provident Funds and Miscellaneous

Provisions Act, 1952. On verification of records, the E.O submitted a report alleging that Appellant failed to enroll 49 drivers/milk distribution contractors to the PF from their date of joining and thus defaulted in payment of PF dues. As per the Appellant, it had been engaging 49 distribution contractors after inviting tenders and accepting the lower bidder basis and they are driving their own vehicle and discharging contractual obligations. Since they are independent contractors they do not come under the purview of employees under the Act. The individual drivers were drawing wages exceeding Rs.15,000/- per month and thus, they were excluded from the provisions of the Act. The Appellant had produced copies of contract with transporting contractors and Form XI and declaration from 49 contractors to show that their salary are greater than the statutory limit and they do not come under the purview of the Scheme. During the enquiry, the Appellant submitted that out of 49 transporting contractors, 38 are driving their own vehicle and rest 11 contractors are employing drivers whose salary exceeds Rs.15,000/- per month. Without considering these submissions, the Respondent passed impugned order treating all these employees as that of the Appellant, which is arbitrary, unsustainable and contrary to the provisions of law and requires to be set aside.

3. In reply, the Respondent submitted that EO has reported that Appellant has remitted ESIC amount in respect of 49 non-enrolled employees with salary being shown as Rs.8700/-. Further, the

wages of non-enrolled employees are not more than the statutory limit. The Appellant failed to produce bifurcation of expenditure components and as such, total wages reflected in wage register cannot be taken as emoluments for the employees. It is the primary duty of the Appellant to enroll all eligible employees whether they are engaged directly or indirectly as the employer-employee relationship exists between the principal employer and 49 drivers engaged on contract basis. It is pertinent to mention here that as per clause 14 of the agreement produced by the appellant as Annexure-VII(3), it is mentioned that the 'Contractor will pay all statutory payments like, EPF, ESI, Income Tax, Service Tax etc. of the Contractor as well as his employees and if not done, MILMA, the Appellant herein shall deduct the amounts and remit it to the appropriate authorities. Further, as per clause 29 of the agreement, it is stated that the tender documents will form part of the agreement. It is also submitted that in the Tender Document of 2017-20 (RD/Mktg/541/TC/2017-2018), under clause 20, it is mentioned that the statutory dues like EPF /ESI will be deducted from the bills of the contractors, and if necessary, a service charge of 2.5% of the salary of the contractor will be deducted. The Respondents were under bonafide belief that amounts so deducted was towards payment of statutory dues, but the same is alleged to have been as security. The Respondents are entitled for EPF as per agreement and as per tender documents. The employer has remitted ESIC in respect of these employees and as per wage register, the Appellant has

shown all these drivers have been shown as excluded employees, however, no muster roll was produced by the Appellant. Therefore, the Respondent authority has rightly passed the impugned order, which does not require any interference by this Tribunal.

4. Heard the learned counsel appearing on behalf of the either side and perused the records. According to the appellant, 49 independent transport contractors were engaged through contract by way of tender. As per the clauses of agreement between the Appellant and contractors, it is the responsibility of the Appellant as well as contractors to pay PF dues in respect of employees, if not done so, the Appellant shall deduct the amount to extend the benefit of provident fund to the employees engaged by them. Further, it is the contention of the Respondent that wages of non-enrolled employees are not more than the statutory limit. The Appellant failed to produce bifurcation of expenditure components and as such, total wages reflected in wage register cannot be taken as emoluments for the employees. In order to refute this contention, the Appellant neither produced any justifiable records either before the Respondent or before this Tribunal. According to the learned Counsel for the 1st respondent, the statutory provisions makes it mandatory for the principal employer to ensure extension of provident fund benefits to the employees engaged through contractors also. According to him, the definition of employee u/s 2(f) of the Act includes the employees employed by Appellant or through a contractor or in connection with the work of the establishment. Para 30 of EPF Scheme makes it

clear that the principal employer is responsible to remit the contribution in respect of contract employees also. Sec 8A of the Act empowers the principal employer to remit the contribution in respect of contract employees and recover the same from the contract amount. Hence, the appellant cannot escape the liability in respect of provident fund contribution of employees engaged through contractors. Therefore, in my view, there is no infirmity in the impugned order passed by the Respondent.

**ORDER**

For the aforesaid reasons, the appeal filed by the Appellant is liable for dismissal. The appeal is dismissed accordingly.

Place : ERNAKULAM

Date : 09.03.2026

  
(SUSHIL KUMAR-II)  
PRESIDING OFFICER

