



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

Present: Shri.V.Vijaya Kumar, B.Sc., LLM, Presiding Officer.

(Thursday the 14th day of January, 2021)

Appeal No.676/2019
(Old no.545(7)2012)

Appellant : M/s.Kerala State Civil Supplies
Corporation
Maveli Bhavan, Maveli Road
Gandhi Nagar
Kochi - 682020

Respondent : The Regional PF Commissioner
EPFO, Regional Office, Kaloor
Kochi – 682017

This case coming up for hearing on 14.01.2021 and the same day this Tribunal-cum-Labour Court passed the following:

ORDER

Present appeal is filed from order no.KR/KC/4409/ENF-I(2)/2011/15433 dt.01.03.2012 assessing dues in respect of daily wages employees engaged by the appellant U/s 7A of the EPF & MP Act, 1952 (hereinafter referred to as 'the Act'). The total dues assessed is Rs.1,47,69,761/-.

2. The appeal was filed before the EPF Appellate Tribunal and the EPF Appellate Tribunal vide its order dt.10.07.2012 admitted the appeal on the condition that the appellant shall furnish a Bank Guarantee equallant to 50% of

the assessed amount, U/s 7(O) of the Act. The appellant filed a Bank Guarantee for Rs.73,84,818/- which was valid upto 09.08.2013. After transfer of the files from EPF Appellate Tribunal to this Tribunal, notice was issued to the appellant as well as the respondent. When the appellant entered appearance it was pointed out to the appellant that the Bank Guarantee furnished by them lapsed in the year 2013 and therefore it is required to be renewed before the appeal can be heard. Therefore the appeal was posted on various dates and there was no representation for the appellant and hence there was no confirmation whether the 7(O) deposit through Bank Guarantee is renewed. The learned Counsel for the respondent filed counter and argued that since the pre-condition U/s 7(O) for admission of the appeal is not satisfied, the appeal may be dismissed on that ground alone. The appellant was given one more final opportunity on 14.01.2021. There was no representation for the appellant.

3. It is seen that the impugned order is dt.01.03.2012 and assessment of dues is made in respect of more than 3800 casual and daily wages employees engaged by the appellant. It is further seen that the respondent during the course of Sec 7A enquiry has taken all the efforts to collect the required information for identification and assessment of dues in respect of the casual employees from the appellant himself. In this appeal the appellant is challenging their own data provided to the respondent at the time of 7A enquiry. It is seen that the respondent during the course of 7A enquiry has

collected the required information from the appellant and it was collated with the oral evidence adduced by the managers of the appellant establishment. The only other ground that is pleaded in this appeal that some of the employees are engaged through contractors. It is seen that there was another dispute regarding the contract employees of the appellant establishment and it was resolved by the decision of the Hon'ble High Court of Kerala in W.P.(C)no.14985/2011. Hence the only issue pending for consideration is whether the daily wages employees engaged by the appellant Corporation are liable to be enrolled to PF. In the impugned order as well as in the counter filed by the respondent, it is elaborately clarified as how the data regarding these casual employees was collected by the respondent, from the appellant. As per Sec 2(f) of EPF & MP Act an "employee" means any person who is employed for wages in any kind of work, manual or otherwise in or in connection with the work of an establishment and who gets his wages directly or indirectly from the employer and includes any person employed by or through a contractor in or in connection with the work of the establishment. Para 26 of the EPF Scheme provides that every employee employed in connection with the work of a factory or establishment to which EPF Scheme applies shall be entitled and required to become member of PF **from the date of joining the said establishment.** This amendment of the Act was challenged by the various establishments and the Hon'ble Supreme Court of India in **J.P.Tobacco Product Vs UOI**, 1996 1 LLJ 822 SCC upheld the amendment holding that all eligible

employees shall be extended the benefit of provident fund from the date of joining the establishment. In **P.M.Patel and Sons Vs UOI**, 1987(1) LLJ 88 the Hon'ble Supreme Court clarified that 'in connection' with the work of the establishment appearing in the definition of employee means that the homeworkers working away from the factory premises are also included in the definition of employees. From the above, it is very clear that the appellant is liable to enroll all the casual employees and daily wages employees to provident fund from the date of their joining in the appellant establishment.

4. Considering the above facts, it is felt that there is no scope for interfering in the impugned order.

Hence the appeal is dismissed.

Sd/-
(V. VIJAYA KUMAR)
Presiding Officer