



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

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

(Wednesday the 01<sup>st</sup> day of September, 2021)

**APPEAL No.380/2019**

(Old No. ATA 1318(7)2015)

Appellant : M/s. Sir Syed Institute for Technical Studies  
Karimbam P.O, Thaliparamba.  
Kannur - 670 142.

By Adv. R.P.Ramesan

Respondent : The Regional PF Commissioner  
EPFO, Regional Office, Fort Building  
V.K. Complex , Fort Road  
Kannur – 670 001

By Adv. K.C. Santhosh Kumar

This case coming up for final hearing on 12.04.2021 and this Tribunal-cum-Labour Court on 01.09.2021 passed the following:

**ORDER**

Present appeal is filed from order No. KR/KNR/18294/Enf-2(1)/7A/2015-16 dt. 15/10/2015 assessing dues on higher wages U/s 7A of EPF & MP Act, 1952 (hereinafter

referred to as 'the Act'.) for the period from 09/2014 to 06/2015. The total dues assessed is Rs.14,73,925/-.

2. The appellant is an establishment covered under the provisions of the Act. The respondent initiated an enquiry U/s 7A of the Act alleging that the appellant failed to remit contribution on enhanced wages from 09/2014 onwards. It was also alleged that the appellant has not enrolled 66 employees consequent on the revision of wage limit to Rs.15000/-. A representative of the appellant attended the hearing and produced the records such as salary register before the respondent authority. The authorized representative pleaded that the salary limit for the existing employees may be retained at as Rs. 6500/-. It was also pointed out to the respondent authority that out of the 66 employees not enrolled to the fund, many of them joined recently. It was also pointed out that some of these employees also left service of the appellant establishment. Without considering the representation of the appellant, the respondent authority issued the impugned order. The respondent ought not have compelled the appellant to pay contribution at revised salary limit of Rs.15000/- for the existing employees. The respondent also failed to notice that many

of the names that appeared in the acquaintance roll had left the appellant at the time of the inspection by the Enforcement Officer. The respondent authority ought not to have relied on the enquiry report of the Enforcement Officer without provided a copy to the appellant.

3. The respondent filed counter denying the above allegations. Consequent on enhancement of wage sealing from Rs. 6500/- w.e.f 01/09/2014 vide Government of India's gazette notification dt. 22/08/2014, the employees who were drawing wages above Rs. 6500/- but less than Rs.15000/- have to be enrolled to the provident fund scheme. Similarly in respect of employees who were contributing to the provident fund scheme restricting their wages to Rs.6500/- also should contribute on higher wages of Rs.15000/-. The appellant failed to comply the above statutory requirement and continued to restrict the contribution on the wage sealing of Rs.6500/-. An Enforcement Officer who conducted the inspection reported that 66 employees who were drawing salary below Rs.15000/- was not enrolled to provident fund. It was also reported that the contribution in respect of 12 employees were restricted to Rs.6500/- instead of

Rs.15000/- w.e.f 09/2014. Hence an enquiry U/s 7A was initiated by the respondent authority. On 09/10/2015 a representative of the appellant attended the hearing. A copy of the inspection report along with enclosures were handed over to the appellant and they acknowledged the same. The appellant establishment also produced the registers as required in the summons. The representative of the appellant who attended the hearing admitted the liability. However he pleaded that some of the employees has already left the service and they may be excluded from the assessment. Failure to recover contribution from the wages does not entitle the appellant to claim immunity from payment of provident fund. In **Srikanta Dutta Narasimharaja WodierVs Enforcement Officer, Mysore** (AIR 1993 SC 90 SC 1686) the Hon'ble Supreme Court held that the Act and Schemes are self contained code fixing on the employer the responsibility to deduct from the salary, the employee's contribution and contribute employer's share in equal portion and deposit both the contributions to the provident fund accounts of the employees within the time specified in the Act and Schemes. It is a welfare legislation to provide benefits to the employees as per the Scheme.

Mandatory compliance of the directive is needed and violation thereof attracts penal action.

4. Government of India vide gazette notification dt. 22.08.2014 revised the statutory wage limit on which contribution is to be paid from the earlier limit of Rs.6500/- to Rs.15000/- w.e.f 01/09/2014. The above gazette notification has two consequences. The first one is that for all the employees who were already provident fund members and whose salary, limit is restricted to Rs. 6500/- will have to contribute on the wage ceiling of Rs.15000/- from 01/09/2014. Secondly those employees who were treated as excluded employees earlier because they were drawing salary beyond 6500/- will become employees as per the provisions of the Act and they will have to be enroll to the provident fund membership w.e.f 01/09/2014. From the facts of the present case it is seen that the appellant establishment failed to comply with both the requirements. An Enforcement Officer who conducted the inspection of the appellant establishment reported that 66 such employees will have to be enrolled to the fund and for 12 employees the contribution is required to be paid on the higher wage ceiling of Rs.15000/-. Since the appellant establishment

failed to comply with the statutory requirement. An enquiry U/s 7A of the Act was initiated. A representative of the appellant attended the hearing and admitted the statutory liability. The only objection raised by the representative of the appellant is that few of the employees already left the service of the appellant establishment. The respondent authority considered all the facts verified the records produced by the appellant and issued the impugned order. The only claim now made by the appellant in this appeal is that some of the employees left the service and they may be excluded from provident fund membership and some of the employees joined the service of the appellant from a later date and therefore the assessment may be made accordingly. With regard to the first issue that some of the employees left the service of the appellant during these proceedings and therefore the employees will have to be excluded from the assessment cannot be accepted as the same is against the provisions of the law. When an employee becomes eligible for membership, it is the responsibility of the appellant to ensure that he is enroll to the fund and contribution is paid under various schemes. Having failed to do so the appellant cannot take rescue under the illegality committed by him. With regard to the second plea that some of the employees

joined later, it is pointed out that the respondent authority assessed the dues on the basis of the salary register produced by the appellant establishment during the course of 7A enquiry. It is also seen from the proceedings that a copy of the report of the Enforcement Officer was provided during the course of the 7A enquiry. The appellant never filed any objection to the enquiry report. The representative of the appellant who attended the hearing before the respondent authority also did not raise any such contentions. Hence the present pleadings that some of the employees joined later can only be considered as an afterthought and the same cannot be accepted.

5. Considering the facts, circumstances, pleadings and evidence in this appeal I am not inclined to interfere with the impugned order.

Hence the appeal is dismissed.

Sd/-

**(V. Vijaya Kumar)**  
Presiding Officer