



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

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

(Monday the 8th day of March, 2021)

Appeal No.516/2019
(Old no.614(7)2008)

Appellant : M/s.A.P.R.M. Central School
Chithara
Kollam - 691559

Respondent : The Assistant PF Commissioner
EPFO, Sub Regional Office
Kollam – 691001

By Adv.Pirappancode V. S. Sudheer &
Megha A.

This case coming up for hearing on 08.03.2021 and the same day this
Tribunal-cum-Labour Court passed the following:

ORDER

Present appeal is filed form order no.KR/KLM/16202/ENF-1(1)/2008/6881
dt.08.07.2008 assessing dues U/s 7A of the EPF & MP Act, 1952 (hereinafter
referred to as 'the Act') on the difference in contribution and also non enrolled
employees for the period from 06/2004 to 10/2007. The total dues assessed is

Rs.3,50,608/-. The appellant filed a review U/s 7B of the Act and the same was also rejected by the respondent vide order dt.08.07.2008.

2. The appellant is an educational institution. An Enforcement Officer who inspected the appellant establishment reported that there was a difference of 2% in contribution as the appellant was remitting contribution only at the rate of 10% whereas the statutory contribution was required to be paid at the rate of 12%. The Enforcement Officer also reported that there are 35 employees who are eligible to be enrolled to provident fund. Accordingly an enquiry U/s 7A was initiated which culminated in the assessment of dues as per the impugned order. The review application filed U/s 7B of the Act was also rejected by the respondent. The appellant was never informed regarding the enhancement of rate of contribution and therefore the appellant shall not be compelled to pay the difference in rate of contribution. The respondent failed to notice that many of the non enrolled employees were either retired employees or trainees and hence no provident fund is required to be paid against them.

3. According to the respondent, the enhancement of rate of contribution w.e.f. 22.09.2007 was communicated to the appellant in the coverage memo dt.20.01.1998 itself and the appellant cannot plead that they were not aware of the enhancement of rate of contribution w.e.f. 22.09.1997. With regard to the

non enrolled employees, the only contention taken before the respondent was that there was some repetition of names in the report submitted by the Enforcement Officer. The appellant never pleaded the non eligibility of the employees before the respondent authority and never produced any records to substantiate the same.

4. There are two issues involved in this appeal. The 1st issue is with regard to the enhancement of contribution from 10% to 12% w.e.f. 22.09.2007. It is a statutory obligation and the appellant cannot plead ignorance of law for not complying with the statutory provision. Further the learned Counsel for the respondent pointed out that the enhanced contribution was already communicated to the appellant vide coverage memo dt.20.01.1998 while extending the provisions of the Act to the establishment. With regard to the non enrollment of employees, the only contention taken before the respondent authority U/s 7A was that there was repetition of some names. The respondent authority U/s 7A of the Act has taken into account the submission made by the representative of the appellant and assessed dues in respect of 26 non enrolled employees only against 35 non enrolled employees reported by the Enforcement Officer. In this appeal, the appellant has taken a stand that some of the employees who according to them are not eligible and some of the employees who are enrolled from a subsequent date are also included in the

assessment. These are information that were required to be produced before the authority U/s 7A when the matter was being heard. If the appellant is having the details regarding the contribution made against any of the non enrolled employees, he may approach the respondent authority to get the same accounted against the assessment already made. There is also a category of employees who according to the appellant is not eligible to enrolled because they have already crossed the age limit of 60. It is clarified that there is no age limit as far as PF membership is concerned and the age restriction is only with regard to the membership under Employees Pension Scheme. The appellant has also taken a plan that some of the employees are not willing to join provident fund. It is clarified that neither the employer nor the employee has any option with regard to joining provident fund. It is mandatory that all the employees shall be enrolled to provident fund. It is also clarified that the 'trainees' are also classified as employees unless they are appointed under Apprentice Act or under the standing orders of the establishment.

5. It is seen that the impugned order is dt.29.02.2008 and it is not fair to set aside the order on the ground that the appellant has not prosecuted the case properly before the authority U/s 7A. However if the appellant produces proof of having remitted contribution in respect of the non enrolled employees, the

same shall be accounted by the respondent against the assessment order already made by them.

6. Considering the facts, circumstances and pleadings in this case, I am not inclined to interfere with the impugned order.

Hence the appeal is dismissed.

Sd/-

(V. VIJAYA KUMAR)
Presiding Officer