



सत्यमेव जयते

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

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

(Tuesday the 19<sup>th</sup> day of January, 2021)

**APPEAL No.662/2019  
(Old no.28(7)2013)**

Appellant : M/s.Manjeri Municipality  
Manjeri  
Malappauram – 676121

By Adv.R. Ranjith Manjeri

Respondent : The Assistant PF Commissioner  
EPFO, Sub Regional Office  
Kozhikode - 673006

By Adv.(Dr.)Abraham P. Meachinkara

This case coming up for final hearing on 29.12.2020 and this Tribunal-cum-Labour Court on 19.01.2021 passed the following:

**ORDER**

Present appeal is filed from order no.KR/KK/28170/ENF-1(4)/2012/2409 dt.13.09.2012 assessing dues U/s 7A of EPF & MP Act, 1952 (hereinafter referred to as 'the Act') for the period from 01/2011 to 07/2012. The total dues assessed is Rs.3,95,576/-.

2. The appellant is a municipality coming under the provisions of Municipality Act. The appellant received a summons from the respondent issued U/s 7A of the Act, for assessing dues for casual and temporary employees for the period from 01/2011 to 07/2012. The appellant entered appearance through an authorised person and filed objections dt.13.10.2011, 20.10.2011 and 08.11.2011. Without considering the contentions made by the appellant, the respondent issued impugned order. Along with the impugned order the respondent enclosed the name of 27 employees. Out of the 27 employees only 8 were working with the appellant during 01/2011. The Act applies only in respect of notified establishments wherein 20 or more employees are working. As per the statements furnished by the respondent, only 8 employees were working with the appellant on 01/2011 thereby making the coverage illegal. Some of the employees are above the age of coverage under the Act. No reasonable opportunity was provided to the appellant before issuing the impugned order. Permanent and contingent employees working under the appellant are governed by Kerala Municipal Common Service Employees Provident Fund Rules and are not coverable under the Act. All these employees are governed by Govt rules in the matter of pay and conditions of employment. On 26.05.2011 the respondent issued a notice alleging that the appellant employed 42 employees as on 08.01.2011 and is therefore liable to extend the

benefits under the Act. The appellant objected to the coverage on the ground that the appellant is a local self govt department under Govt of Kerala and is governed by Kerala Service Rules. It was also pointed out that the 42 employees mentioned in the coverage notice are contingent employees whose provident fund are managed by the Department of Urban Affairs. Sec 7A of the Act mandates the respondent to decide the question of applicability prior to the determination of dues. The respondent issued the impugned order without considering the same. The appellant being a local body under the authority of State Govt, the employees are provided with the benefit of contributing provident fund and old age pension and is entitled to protection of Sec 16(1)(b) of the Act.

3. The respondent filed counter denying the above allegations. The appellant was covered under the provisions of the Act w.e.f. 01/2011 and is liable to remit contribution as required under the Act. Since the appellant failed to comply, a notice was issued directing the appellant to produce necessary records. The Revenue Inspector attended the enquiry but failed to produce any records. The enquiry was adjourned on many occasions. The Revenue Inspector who attended the enquiry took the stand that the matter regarding the compliance is referred to State Govt and they are waiting approval from the Govt. Though seven opportunities were given to the appellant, they

failed to produce any records and therefore the impugned order was issued on the basis of the reports submitted by the Enforcement Officer. The coverage of the appellant establishment is legal valid and sustainable, since it satisfies all the required conditions for coverage under the Act.

4. The appellant is a Municipality. All Municipalities and Municipal Councils and Municipal Corporations constituted under Sub Clauses d and c of Clause 1 of Article 243Q of the Constitution of India are brought under the fold of EPF & MP Act vide notification S.O.30(E) w.e.f. 08.01.2011. The appellant is required to extend the social security benefits under the Act for all those employees who are not getting the benefit of provident fund and pension as per the provisions of the State Act. This impliedly means that all the casual and contract employees working under the Municipalities are required to cover all such employees under the social security benefits of the Act. Under Sec 2(f) of the Act 'an employee' means any person who is employed or engaged in any kind of work manual or otherwise in or in connection with the work of 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. The appellant has taken a stand that they are not employing 20 persons to come within the purview of the Act. It is a strange argument. The list of employees will include only the eligible

employees who are required to be enrolled to the provident fund. It is also strange that the appellant has taken a view that Municipalities are not notified establishments under the provisions of the EPF & MP Act when all other Municipalities in the State of Kerala are complying with the provisions of the Act in respect of casual and contract employees working with them.

5. Having considered the general implication of the dispute raised by the appellant, it is a specific case of the appellant that they are not employing 20 persons as on 01/2011 from which date the Municipalities are notified under the Act. However it is seen that no such contention is raised before the respondent authority at the time of 7A hearing. The only contention that is raised is the matter regarding coverage under the Act was referred to the Govt for a final decision. It is seen that Govt of Kerala has already issued directions to all Municipalities to extend benefit of social securities under the Act w.e.f. 01/2011. Since the appellant has raised the question of applicability of the Act, it is felt appropriate to remand the matter back to the respondent to decide the question of applicability and assess the dues afresh in respect of eligible employees who are required to be enrolled to the fund. If the respondent finds that the Act is not applicable to the appellant for any reason, the contribution need not be quantified.

6. In view of the above observations, the appeal is allowed, the impugned order is set aside and the matter is remitted back to the respondent to decide the applicability and re-assess the dues, if necessary, in respect of the eligible employees of the appellant.

Sd/-

(V. Vijaya Kumar)  
Presiding Officer