

**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR  
COURT, JABALPUR**

**NO. CGIT/LC/EPFA/22/2017**

**Present: P.K.Srivastava**

**H.J.S..(Retd)**

**M/s District Marketing Officer Janjgir,  
Chhattisgarh State Cooperative Marketing  
Federation Limited,  
Through – Litigation Incharge, Chhattisgarh  
State Cooperative Marketing Federation Limited,  
Head Office - Raipur**

**Workman**

**Vs**

**Assistant Provident Fund Commissioner  
Office of: Employees Provident Fund Organization  
Regional Office Block D, Scheme No. 32,  
Indira Gandhi VyavasaikParisar, Pandri,  
Raipur (C.G.)**

**Management**

**(JUDGMENT)**

**(Passed on this 11<sup>th</sup> day of July-2025)**

सत्यमेव जयते

The present appeal is directed against order by Respondent Authority dated 04.04.2010, passed by him under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, (in short the 'Act') holding the Appellate Establishment liable to be deposit EPF dues of Workers of its different contractors for the period between 2006 to 2008 as Principal Employer and has assessed the amount at Rs.20,18,863/-.

**Facts connected are mainly that,** the Appellant Establishment is engaged in various activities with respect to storage, procurement, and distribution of Paddy and Wheat for which they engaged different Contractors who get work orders from the Appellant Establishment and get the work executed through the Hammals engaged by them. Proceedings under Section 7A of the Act was initiated for assessment for the period April 2006 to July, 2008 with respect to failure in deposit of EPF dues by the Contractors engaged by the Appellant Establishment relating to the Hammals engaged by the different contractors for execution of the work

contract granted by the Appellant Establishment to the Contractors and the notices was sent to the Appellant Establishment to participate in the enquiry to be conducted by the Respondent Authority with respect.

**According to the Appellant Establishment,** they appeared before the Respondent Authority and submitted a list of the Contractors also prayed for summoning the contractors but without considering the submissions made by the Appellant Establishment the Respondent Authority passed the impugned order regarding the impugned finding and assessment on the basis of report of the Enforcement Officer dated 09.02.2010. A copy of which was never provided to the Appellant Establishment to have their say on this report. The Respondent Authority did not identify the beneficiaries and their number whose EPF dues were to be deposited. Hence, this appeal.

**Grounds taken** are mainly that, the impugned order is bad in law and fact as such illegal and liable to be set-aside that it has been passed only on the basis of report of Enforcement Officer without providing an opportunity of hearing to the Appellant Establishment on this report. The impugned order is bad in law and fact, also because it has been passed without identification of beneficiaries and their number and without summoning the Contractors who had engaged these Hammals. The Impugned order is against law because the Hammals cannot be treated as a employee under Section 2(F) of the Act.

**In its counter to the appeal,** the Respondent Authority has defended the impugned order and assessment with the case that, the Act is a beneficial legislation. The Hammals are employees under the Act. The Appellant Establishment being Principal employee is jointly and severely liable for deposit of EPF dues of Contract Workers engaged for the Work of Appellant Establishment. Also it has been stated that, the impugned findings and assessment have been recorded after due enquiry in which the Appellant Establishment was given full opportunity of hearing.

The Appellant Establishment has filed rejoinder in which they have mainly retreated their case.

The Appellant Establishment has filed written submission through its learned advocate Mr. M.K. Vyas and Mr. Praveen Yadav. The Respondent

Authority also has filed and submitted written arguments through its Learned Counsel Mr. J.K. Pillai.

I have gone through the record.

In the light of the arguments following points comes up for determination.

**1. Whether finding of the Respondent Authority holding the Appellant Establishment liable to pay EPF dues of Hammals engaged by different contractors of the Appellant Establishment for the Work of Appellant Establishment and the assessment has been recorded correctly in law and fact?**

The submissions of the Appellant Establishment are mainly that, **firstly**, these Hammals are not engaged by them, rather they were engaged by Contractors, hence they are not the employees of the Appellant Establishment under Section 2(F) of the Act. **Secondly**, no opportunity was given to Appellant Establishment to have its say on report of the Enforcement Officer which is the basis of impugned findings. **Thirdly**, in spite of request of the Appellant Establishment, the contractors were not summoned at the time of hearing. **Fourthly**, the beneficiaries were not identified. The order does not contain reasons of the findings .

Reliance of following judgments have been placed by the Appellant Establishment in this respect:

1. **H.P. State Forest Corporation V.s. RPFC, 2009 (1) LJ 141 SC** – held assessment of due without identification of beneficiaries is illegal.
2. **Food Corporation of India V.s.RPFC (1990) 1 SCC 68**, held – the Commissioner will conduct an enquiry under Section 7A. His same powers as vested in Court under Code of Civil Procedure.
3. **RPFC V.s. Glamour (1982) LIC 1787** held- report of Inspector is no substitute for proper enquiry. The establishment is entitled to show that the report is not passed on fact.
4. **M/s PBM Politechs V.s. RPFC, Jabalpur 1999 (81) FLR 382** held- order does not contain any list of names of PF members and salary, and

due amount towards their salary in each month and has been passed indorsing the findings of Enforcement Officer is illegal.

**5. M/s Maharashtra Dal Industries V.s. APFC (citation not mentioned)**

**6. Food Corporation of India V.s. Union of India, AIR 1998 SC 2841** held in absence of material High Court was not justified in assuming certain factors to fixed liability on FCI without proceeding under relevant provisions in the Act.

**7. Chatram Agrawal V.s. RPFC (1972) 1 Lab 603** held – order under Section 7A of the Act should be speaking one.

**The Respondent Authority** has submitted that, the Act is beneficial legislation, hence which requires to be interpreted in favor of the beneficiary if two interpretations of one provision are possible. Secondly, the Appellant Establishment is covered under the Act, having more than 20 Employees on its work rolls. Every employee is under obligation in law to deposit EPF dues of its employees by the 15<sup>th</sup> of the next month in which the employee has worked. According to Section 2F of the Act, the workers of the contractor engaged by the Principal employer, are employees of the Principal Employer hence liability to deposit EPF dues of Contract Workers is joint severely, the Appellant Establishment is under liability to pay EPF dues of its Contract Workers and lastly the impugned findings and assessment have been passed after duly conducting enquiry. Hence, the impugned order does not warrant any interference.

Before entering into any discussion, some provisions of the Act required to be mentioned here which are as follows:-

**1. 1(3)B-**

*“to any other establishment employing twenty or more persons or class of such establishments which the Central Government may, by notification in the Official Gazette, specify in this behalf:*

*Provided that the Central Government may, after giving not less than two months notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment employing such number of persons less than <sup>4</sup>twenty as may be specified in the notification.”*

**2. 2(E) & (F)**



(e) "employer" means--

(i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948), the person so named; and

(ii) in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent;

(f) "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--

(i) employed by or through a contractor in or in connection with the work of the establishment;

(ii) engaged as an apprentice, not being an apprentice engaged under the Apprentices Act, 1961 (52 of 1961), or under the standing orders of the establishment;

### **32. Recovery of a member's share of contribution**

(1) The amount of a member's contribution paid by the employer [or a contractor shall, notwithstanding the provisions in this scheme or any law for the time being in force or any contract to the contrary, be recoverable by means of deduction from the wages of the member and not otherwise:

Provided that no such deduction may be made from any wages other than that which is paid in respect of the period or part of the period in respect of which the contribution is payable:

Provided further that the employer or a contractor shall be entitled to recover the employee's share from a wage other than that which is paid in respect of the period for which the contribution has been paid or is payable where the employee has in writing given a false declaration at the time of joining service with the said employer or a contractor that he was not already a member of the Fund:

Provided further that where no such deduction has been made on account of an accidental mistake or a clerical error, such deduction may, with the consent in writing of the Inspector, be made from the subsequent wages.

(2) Deduction made from the wages of a member paid on daily, weekly or fortnightly basis should be totalled up to indicate the monthly deductions.

(3) Any sum deducted by an employer [or the contractor] from the wages of an employee under this Scheme shall be deemed to have been entrusted to him for the purpose of paying the contribution in respect of which it was deducted.

### **3. Para 36 (B) Employees Provident Fund Scheme, 1952**

#### **36-B. Duties of contractors**

*Every contractor shall, within seven days of the close of every month, submit to the principal employer a statement showing the recoveries of contributions in respect of employees employed by or through him and shall also furnish to him such information as the principal employer is required to furnish under the provisions of the Scheme to the Commissioner.*

### **4. Para 38 Employees Provident Fund Scheme, 1952**

#### **38. Mode of payment of contributions**

*(1) The employer shall, before paying the member his wages in respect of any period or part of period for which contributions are payable, deduct the employee's contribution from his wages which together with his own contribution as well as an administrative charge of such percentage [of the pay (basic wages, 47 www.epfindia.gov.in dearness allowance, retaining allowance, if any, and cash value of food concessions admissible thereon) for the time being payable to the employees other than excluded employee and in respect of which provident fund contribution payable, as the Central Government may fix. He shall within fifteen days of the close of every month pay the same to the fund electronic through internet banking of the State Bank of India or any other Nationalized Bank or through*

*PayGov platform or through scheduled banks in India including private sector banks authorized for collection on account of contributions and administrative charge: Provided that the Central Provident Fund Commissioner may for reasons to be recorded in writing, allow any employer or class of employer to deposit the contributions by any other mode other than internet banking.*

*(2) The employer shall forward to the Commissioner, within twenty-five days of the close of the month, a monthly abstract in such form as the Commissioner may specify showing the aggregate amount of recoveries made from the wages of all the members and the aggregate amount contributed by the employer in respect of all such members for the month: Provided that an employer shall send a Nil return, if no such recoveries have been made from the employees : Provided further that in the case of any such employee who has become a member of the pension fund under the Employees' Pension Scheme, 1995, the aforesaid form shall also contain such particulars as are necessary to comply with the requirements of that Scheme.*

*(3) The employer shall send to the Commissioner within one month of the close of the period of currency, a consolidated annual Contribution Statement in Form 6A, showing the total amount of recoveries made during the period of currency from the wages of each member and the total amount contributed by the employer in respect of each such member for the said period. The employer shall maintain on his record duplicate copies of the aforesaid monthly abstract and consolidated annual contribution statement for production at the time of inspection by the Inspector. [Provided that the employer shall send to the Commissioner returns or details as required under sub-paragraph (2) and (3) above, in electronic format also, in such form and manner as may be specified by the Commissioner].*

**Regarding** the applicability of the Act on the Appellant Establishment since it has the more than 20 employees on its Service Rolls hence, it is covered under the Act in the light of Section 3(B) of the Act. Moreover, this point is not disputed.

**As regards**, whether the Hammals engaged by Contractors for the work of Appellant Establishment are employees of the Appellant Establishment Section 2(E) and 2(F) specifically states that, *“employee means a person who gets its wages directly or indirectly from the employer and a person employed by or through a Contractor in or in connection with the Work of the Establishment”*.

Since, these Hammals were undisputedly engaged by the Contractors, who were working under the contract of the Appellant Establishment for the work of the establishment with regards to loading, unloading etc., they are employees under the Act and the Appellant Establishment is also their Employer.

It also comes out from the perusal of above referred Clauses of Employees Provident Fund Scheme that, the liability of the Appellant Establishment and Contractors with respect to deposit of PF dues of employees engaged by the Contractors is joint and several.

As regard, the submission with respect to non-identification of beneficiaries, the Appellant Establishment has failed to ensure the compliance of Clause 36B by the Contractor, hence he cannot disown responsibility in this respect.

**Hence, the findings of the Respondent Authority that the Appellant Establishment is under obligation in law jointly and severally to deposit the EPF dues of Hammals engaged by the contractors for the work of Appellant Establishment cannot be faulted in law or fact. Holding these findings correctly recorded in law and fact, it is affirmed.**

**Also, it comes out that**, the Appellant Establishment itself has disclosed the amount paid to the different contractors and there is a list of contractors available with the Respondent Authority. The contribution has been assessed considering the total amount paid by the Appellant Establishment to the Contractors engaged and the minimum wages payable to the Hammals on daily wages. Hence, submission from side of the Appellant Establishment in this respect also fails.

This is also worth mentioning that since the liability of the Appellant Establishment to deposit EPF dues of the Hammals with the Employees Contribution is joint and several with the Contractors and if the



Appellant Establishment feels like they have paid the PF amount to the Contractors, also they are at liberty to recover the amount from different Contractors.

Hence, in the light of above discussion, the findings of the Respondent Authority with respect to assessed amount is held to have been recorded correctly in law.

Point for determination is answered accordingly.

No other point was pressed.

On the basis of above findings and discussion, the appeal is held sans merits and is liable to be rejected.

**ORDER**

**Appeal Dismissed.  
No order as to cost.**

**Date:- 11/07/2025**

**P.K. Srivastava  
(Presiding Officer)**

**Judgment Signed, dated and pronounced.**

**Date:- 11/07/2025**

**P.K. Srivastava  
(Presiding Officer)**

