

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL/EMPLOYEES
PROVIDENT FUND APPELLATE TRIBUNAL, JABALPUR

EPF Appeal No.- 07/2023

Present – P.K. Srivastava

H.J.S. (Retd.)

**Madhya Pradesh Today Media Limited,
 Through the Human Resource (Coordinator)
 Shri Hemant Khedkar,
 S/o Harichandra Khedkar
 Aged about 38 years
 Registered office Address: Plot No.5,
 Press Complex, M.P. Nagar - Zone 1,
 Bhopal (M.P.)**

Appellant

Vs.

- 1. Employees' Provident Fund Organisation,
 Through the Regional Provident Fund Commissioner,
 Regional Office, 59-Areara Hills, Bhopal (M.P.)**
- 2. Rajendra Mehta
 R/o 67, Galla Bazar, Jehangirabad,
 Tehsil Hujur, District Bhopal (M.P.)**

Respondent

Shri Pranay Choubey : Learned Counsel for Appellant.

Shri Abhishek Arjariya : Learned Counsel for Respondent.

Shri Swapnil Khare : Learned Counsel for Respondent No. 2.

JUDGMENT

(Passed on 05th day of December, 2025)

The present appeal is directed against the order dated 29.07.2020, passed by Respondent Authority under section 7-A of the **Employees Provident Fund & Miscellaneous Provisions Act, 1952** (hereinafter referred to as the '**Act**'), now substituted by the **Wage Court** (in short the '**Code**') whereby, the Appellant Establishment has been held liable to deposit the EPF dues of its employee Rajendra Mehta, Respondent No. 2 and has assessed the amount @ Rs. 2,40,139/-, further directed to deposit the amount with the organization.

The facts connected in brief are that, the Appellant Establishment is a Media Organization who has its registered office in the name of M/s Madhya Pradesh Today Media Ltd., at present Public Company w.e.f. 05.07.2017 and is covered under the Act. It has been allotted Provident Fund Code Number in which it has been depositing the Provident Fund dues of its employees. Respondent No. 2, Rajendra Mehta, was engaged by the Appellant Establishment from June, 2012 as a freelance journalist because he was a freelancer, drawing salary more than ceiling limit Rs. 6,500/- per month prescribed at that time, enhanced to Rs. 15,000/- per month later on.

It is further the case of the Appellant Establishment that this Rajendra Mehta was not a regular employee of the establishment, he used to write articles in the newspaper for which he was paid though he was designated as Sub-editor by the establishment. He was registered a freelance journalist in the Accredited Journalist (State Level) list w.e.f. 2013 to 2018 by the Commissioner, Public Relations Department. He made complaint before the Respondent Authority regarding non-deposit of his Provident Fund dues by the Appellant Establishment which had no substance and could not be entertained by the Respondent Authority because he was not an employee under the Act and *Employees Provident Fund Scheme of 1992* (in short the '**Scheme**'). The Respondent Authority wrongly recorded a finding that the Appellant Establishment was liable to deposit Provident Fund dues of Rajendra Mehta which is against fact and law, recorded by Respondent Authority in complete

ignorance of law hence, is arbitrary, unjust and illegal. The amount assessed also is arbitrary, the Appellant Establishment has sought the relief to set aside of the impugned order and assessment.

In counter to the appeal, the Respondent Authority has taken a case that the Act is a Social Welfare Legislation to provide social security benefits in form of Provident Fund, Insurance and Pension to workers and their families, it applies to every establishment or class of establishments as specified in section 1(3)(a) and 1(3)(b) of the Act. It provides compulsory deduction of provident fund by the employer from employees and deposit it with the Respondent Authority alongwith the share of the employer. This duty is provided under para 30(3) of the **EPF Scheme, 1952**. The Appellant Establishment is covered under the Act. The respondent No. 2, Rajendra Mehta, the journalist is also covered under the Act and is under protection of the Act in light of para 80 of the **EPF Scheme, 1952** which provides that newspaper employees as defined under section 2 of the **Working Journalists & Newspaper Employees (Conditions of Service and Miscellaneous Provision Act, 1955 (in short Newspaper Employees Act)** which include any working journalists also employed to do any work in, or in relation to, the newspaper establishment are covered under the Scheme. Rajendra Mehta, being a Subeditor in the Appellant Establishment as a newspaper employee as defined under section 2 of the **Newspaper Employees Act**, referred to above earlier. Hence, is eligible for EPF membership and other allied benefits. The ceiling limit applicable under the Act is not applicable with respect to the newspaper employees. Hence, the finding of the Respondent Authority with respect to applicability of the Appellant Establishment and assessment cannot be faulted in law or fact as they have been recorded under law.

In its rejoinder, the Appellant Establishment has mainly reiterated its pleadings.

I have heard argument of Learned Counsel Mr. Pranay Choubey for the Appellant Establishment and Mr. Abhishek Arjariya Learned Counsel for Respondent No. 1, respondent No. 2 represented by his Learned Counsel Mr. Arun Patel also submitted his argument and has filed written submission which are part of record. The Respondent Authority has also

filed written submission which is part of record. I have gone through the written arguments and the record as well.

On perusal of the record in light of rival arguments following point comes up for determination in the case in hand.

(1) Whether the finding of the Respondent Authority that respondent No. 2, Rajendra Mehta is entitled to the benefit of the Act and liability as well assessment has been correctly recorded in law and fact?

The main argument of Learned Counsel for Appellant Establishment who has attacked the aforesaid finding is that Rajendra Mehta is a freelance journalist, registered with the Government as a freelance journalist, hence he cannot be held to be an 'employee' of the Appellant Establishment under the 'Act' and hence, the finding of the Respondent Authority that he is an 'employee' under the Act and Scheme is in ignorance of the fact that being a freelance journalist he cannot be employed by an employer, rather his work was only to submit his written articles and reports for which he was paid. Learned Counsel further submits that simply by offering a designation of Sub-editor, he does not become an employee of the Appellant Establishment for the act.

Learned Counsel for the Respondent Authority and Rajendra Mehta, respondent No. 2 have countered these arguments with a submission that **firstly**, the 'Act' and 'Scheme' do not make any such differentiation between a freelance who works for the establishment and other employees and **secondly**, there is no wage ceiling under the Newspaper Employees Act (*supra*) hence, he has been rightly held covered under the Act and finding of the Respondent Authority as well as assessment cannot be faulted in law or fact.

Before proceeding, some provisions of the section 1(3)(a) & 1(3)(b) & section 2(e) & 2(f) of the Act and 30(2)(3) & 80(2) of the Scheme are required to be reproduced and are being reproduced as follows:-

“(1)(3) Subject to the provisions contained in section 16, it applies—

- (a) to every establishment which is a factory engaged in any industry specified in Schedule I and in which twenty or more persons are employed, and***

- (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:"*

2(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) *(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;]*

2(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;*

Para 30(2)&(3), para 80(2) of the Scheme & Working Journalists & Newspaper Employees (Conditions of Service and Miscellaneous Provision Act, 1955), are being reproduced as under-

"30 (2) In respect of employees employed by or through a contractor, the contractor shall recover the contribution payable by such employee (in this Scheme referred to as the member's contribution) and shall

pay to the principal employer the amount of member's contribution so deducted together with an equal amount of contribution (in this Scheme referred to as the employer's.

(3) It shall be the responsibility of the principal employer to pay both the contribution payable by himself in respect of the employees directly employed by him and also in respect of the employees employed by or through a contractor and also administrative charges.

80(2). Special provisions in the case of newspaper establishments and newspaper employees

The Scheme shall, in its application to newspaper establishments and newspaper employees, as defined in section 2 of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955, come into force on the 31st day of December, 1956 and be subject to the modifications mentioned below : —

1. *In Chapters I to IX, references to 'industry', 'factories' and 'employees' shall be construed as references to 'newspaper industry', 'newspaper establishments' and 'newspaper employees', respectively;*
2. *For paragraph 2(f), the following shall be substituted, namely: —*
"(f) 'excluded employee' means,-
 - (i) *an employee who, having been a member of the Fund, has withdrawn the full amount of his accumulations in the Fund under clause (a) or (c) of sub-paragraph (1) of paragraph 69;*
 - (ii) *an apprentice.*

Explanation : 'Apprentice' means a person who, according to the standing orders applicable to the newspaper establishment concerned, is an apprentice or who is declared to be an apprentice by the authority specified in this behalf by the appropriate Government.

3. *For para.26, the following shall be substituted, namely: —*

26. Class of employees entitled and required to join the Fund

- (1) (a) *Every newspaper employee employed to do any work in, or in relation to, any newspaper establishment to which this Scheme applies, other than an excluded employee, shall be entitled and required to become a member of the Fund from the beginning of the*

months following that in which this paragraph comes into force in such establishment, if on the date of such coming into force he has completed three months' continuous service or has actually worked for not less than 60 days during a period of three months or less in that newspaper establishment or in other such establishment to which the Act applies under the same employer or partly in one and partly in the other [or has been declared permanent in any such factory or other newspaper establishment, whichever is the earliest.

(b) Every newspaper employee employed to do any work, in or in relation to, any newspaper establishment to which this Scheme applies other than an excluded employee, shall be entitled and required to become a member of the Fund from the beginning of the month following that in which this paragraph comes into force in such newspaper establishment, if on the date of such coming into force, such employee is a subscriber to a provident fund maintained in respect of the establishment or in respect of another establishment to which the Act applies under the same employer.

(2) Where the Scheme applies to a newspaper establishment on the expiry or the cancellation of an order of exemption under section 17 of the Act, every employee, who, but for the exemption, would have become and continued as a member of the Fund shall become a member of the Fund forthwith.

(3) After this paragraph comes into force in a newspaper establishment, every newspaper employee thereof, other than an excluded employee, who has not become a member already shall also be entitled and required to become a member from the beginning of the month following that in which he completes three months' continuous service or has actually worked for not less than 60 days during a period of three months or less], in that establishment or in another such establishment to which the Act applies under the same employer or partly in one and partly in the other or has been declared permanent in any such factory or other newspaper establishment, whichever is the earliest.

(4) An excluded employee referred to in clause (ii) or paragraph 2(f) of a newspaper establishment to which this Scheme applies shall, on ceasing to be such an employee be entitled and required to become a member of the Fund from the beginning of the month following that in which he ceases to be such employee, provided that on the date on which he ceases to be an excluded employee, he has completed three months' continuous service] or has actually worked

for not less than 60 days during a period of three months or less in the newspaper establishment or in another such establishment to which the Act applies under the same employer or partly in one and partly in the other or has been declared permanent in any such newspaper establishment, whichever is the earliest.

(5) On re-election of a class of newspaper employees exempted under paragraph 27-A to join the Fund or on the expiry or cancellation of an order under that paragraph, every newspaper employee, who but for such exemption would have become and continued as a member of the Fund, shall forthwith become a member thereof.

(6) Every newspaper employee who is a member of a private provident fund maintained in respect of an exempted newspaper establishment and who, but for the exemption would have become and continued as a member of the Fund shall, on joining a newspaper establishment to which this Scheme applies, become a member of the Fund forthwith.

(7) Notwithstanding the other provisions of this paragraph, a Commissioner may, on a joint request in writing of any newspaper employee of a newspaper establishment to which this Scheme applies and his employer, enroll such employee as a member who shall, thereafter, be entitled to the benefits and shall be subject to the conditions of the Fund: सत्यमेव जयते

Provided that the employer gives an undertaking, in writing, that he shall pay the administrative charges payable and comply with all statutory provisions of the Act and this Scheme in respect of such employee.

Explanation I: For purposes of this paragraph the provision contained in clause (e) of paragraph (2) shall not apply and "continuous service" shall mean uninterrupted service but include service which is interrupted by sickness, accident, authorised leave, strike which is not illegal or involuntary unemployment.

Explanation II : In computing the period of work for 60 days under this paragraph:

- (a) periods of involuntary unemployment caused by stoppage of work due to shortage of raw materials or fuel, changes in the line of production, breakdown of machinery or any other similar cause;*
- (b) periods of authorised leave;*

(c) in the case of female employees, period of maternity leave for any number of days not exceeding twelve weeks; and

(d) Sundays and holidays intervening the days of actual work, shall also be deemed to be days on which the employee has worked in the establishment.

Section 2(b) & 2(c) of the *Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955*;

(b) “newspaper” means any printed periodical work containing public news or comments on public news and includes such other class of printed periodical work as may, from time to time, be notified in this behalf by the Central Government in the Official Gazette;

(c) “newspaper employee” means any working journalist, and includes any other person employed to do any work in, or in relation to, any newspaper establishment;

From the above description of provisions, it is established that the *Working Journalists & Newspaper Employees (Conditions of Service) and Miscellaneous Provision Act, 1955*, does not differentiate between the regular employee and freelancer. Secondly, para 80 does not provide wage ceiling for application of the Scheme of newspaper employees as mentioned above.

Main submission from the side of Appellant Establishment is that being a freelance journalist, Rajendra Mehta could not be employed as a regular employee by them. This is undisputed that Rajendra Mehta has been assigned the post of Sub-editor with the Appellant Establishment and he has been paid his salary on monthly basis, may be the employment of a freelance journalist is irregular but since Appellant Establishment has employed him in regular employment they cannot be permitted to take benefits of their own mistakes/violation if any. Moreover, the law does not distinguish between different classes of newspaper employees as it is clear from section 2 of *Working Journalists & Newspaper Employees (Conditions of Service and Miscellaneous Provision Act, 1955)*, as referred to above.

Hence, in light of above discussion the submission from the side of Appellant Establishment with regard to correctness of the findings as

well assessment cannot be accepted, it is held that the finding that Rajendra Mehta , respondent No. 2 is entitled to be covered under the Act being newspaper employee, recorded by Respondent Authority, is correct in law and fact. Further, finding that Appellant Establishment is under obligation to deposit PF dues of Rajendra Mehta as assessed is also held to have been recorded correctly in law and fact.



Point of determination is answered accordingly.

No other point was pressed.

In light of above discussion, affirming the impugned order, the appeal fails.

ORDER

Appeal dismissed.

No order as to cost.

Date:- 05/12/2025

P.K. SRIVASTAVA
(PRESIDING OFFICER)

Judgment Signed, dated and pronounced.

Date:- 05/12/2025

P.K. SRIVASTAVA
(PRESIDING OFFICER)

