

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM LABOUR COURT/EPF APPELLATE TRIBUNAL,
JABALPUR

NO. CGIT/LC/EPFA-35-2017

PRESENT: P.K.SRIVASTAVA
H.J.S.(Retd.)

Danielson Degree College

APPELLANT

Versus

Assistant Provident Fund Commissioner
Jabalpur(M.P.)

RESPONDENT

Shri Aditya Ahiwasi : Learned Counsel for Appellant.

Shri J,K,Pillai :Learned Counsel for Respondent.

(J U D G M E N T)

(Passed on this 6th day of October-2021)

1. The present appeal is directed against the order dated 13-5-2011 holding the appellant establishment covered under the provisions of Employees Provident Fund and Misc. Provisions Act,1952(hereinafter referred to as the word Act) and directed the appellant establishment to comply with the provisions of the Act and Scheme framed there under as well as extend the membership of all eligible employees and remit their dues and also submit all the prescribed statutory return to Regional Provident Fund Commissioner Jabalpur failing which another inquiry under Section 7A of the Act.
2. The grounds of appeal mainly are that the impugned order is arbitrary to the facts and material on record. The impugned order was passed by Respondent by not considering the detailed reply as

well as the material produced before the Respondent Authority. It has been passed without application of mind. The Respondent Authority has committed error in passing the impugned order.

3. The Respondent side has mainly defended the impugned order in its reply/counter with a case that the impugned order is not an assessment order. It simply holds that the appellant establishment is covered under the provisions of the Act and has directed the appellant establishment to deposit the employees provident fund dues to all eligible employees covered under the Scheme and file return thereafter before the Respondent Authority
4. I have heard argument of learned counsel for the appellant Shri Aditya Ahiwasi and Mr. J.K.Pillai, learned counsel for the respondent . I have gone through the record as well.
5. Section 7(I) and Section 7A of the Employees Provident Fund and Misc. Provisions Act,1952, requires to be referred here before any discussion:-

Section 7(I)-

Appeals to the Tribunal.- (1) Any person aggrieved by a notification issued by the Central Government, or an order passed by the Central Government, or any authority, under the proviso to sub-section (3), or sub-section (4), of section 1, or section 3, or subsection (1) of section 7A, or section 7B [except an order rejecting an application for review referred to in sub-section (5) thereof], or section 7C, or section 14B, may prefer an appeal to a Tribunal against such order. (2) Every appeal under sub-section (1) shall be filed in such form and manner, within such time and be accompanied by such fees, as may be prescribed.

Section 7(A)-Determination of moneys due from employers. –

[(1) The Central Provident Fund commissioner, any Additional Central Provident Fund Commissioner, any deputy Provident Fund Commissioner, any Regional

Provident Fund Commissioner, or any Assistant Provident Fund Commissioner may, by order,-

(a) In a case where a dispute arises regarding the applicability of this Act to an establishment, decide such dispute; and

(b) Determine the amount due from any employer under any provision of this Act, the Scheme or the 1[Pension] Scheme 2[or the Insurance Scheme], as the case may be.

6. As it appears from the case in hand that no assessment has been done by the Respondent authority by the impugned order. A simple direction to the appellant establishment that the employees provident fund dues eligible to the employees be deposited and a return in this respect be submitted to the Respondent Authority failing which an inquiry under Section 7A of the Act would be establishment for assessment of dues . Till any assessment is made by Respondent Authority, it cannot be held that any prejudice has been caused to the appellant establishment by simply directing the appellant establishment to deposit the employees provident fund dues of its eligible employees. The appellant establishment may contend before the Respondent Authority that it has no employees eligible to be covered within the Act or it has this number of employees eligible to be covered under the Act. IN the light of the aforesaid discussion, the appeal to be pre-mature and is liable to be dismissed.

ORDER

Accordingly the appeal stands dismissed.

No order as to costs.

(P.K.SRIVASTAVA)

PRESIDING OFFICER

JUDGMENT SIGNED , DATED AND PRONOUNCED.

(P.K.SRIVASTAVA)

PRESIDING OFFICER

Date:6-10-2021