

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

EPF Appeal No.- 105/2017

Present – P.K. Srivastava

H.J.S. (Retd.)

1. Bharat Sanchar Nigam Ltd.,
O/o Chief General Manager,
Raipur (Chhattisgarh)

Appellant

Vs.

1. Assistant Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Raipur (Chhattisgarh)
2. BSNL Employees Union Through S.C.
Bhattacharyan, Circle Secretary R/o
Ganga Vihar, Amlidih P.O. Ravigram P.S.
Rajendra Nagar, Raipur, Distt. Raipur
(CG)
3. BSNL Theka Majdur Union, Through
President Sh. R.K. Nagrachi R/o Laxmi
Nagar, Pachpedi Naka, Raipur P.S.
Tikrapara, Raipur Distt. Raipur (CG)
4. BSNL Theka Majdur Union, Through Shri
Gopal Ram Gupta District Secretary, C/o
Telephone Exchange, Lakhanpur, P.S. City
Kotwali, Ambikapur Distt. Sarguja (CG)
5. M/s. Mukesh Kumar Verma Santoshi
Chowk, Kushalpur P.S. Sunder Nagar,
Raipur, Distt. Raipur (CG)
6. M/s. S.D. Construction Near Marwadi
Dharamshala, School Road, P.S.
Ambikapur, Ambikapur, Distt. Sarguja
7. M/s. Talat Construction Kharsiya Naka
Road, Ambikapur, P.S. Ambikapur Distt.
Sarguja
8. M/s. Rudraksha Security & Allied Services
A-13, Sharma Apartment, Plot NO. 32,
Sector 10, Dwarka, P.S. Dwarka, New
Delhi

9. M/s. Devi Shree Travels, Ekta Nagar, P.S. Gudhiyari, Raipur, Distt. Raipur, (CG)
10. Shri Paramjeet Singh Vasu, (Contractor) Near Telephone Exchange P.S. City Kotwali, Raigarh, Distt. Raipur (CG)
11. M/s. Saksham Security Prop. Sh. R.D. Dubey 227, 1 Floor, Srinath Talaiya P.S. Jabalpur, Distt. Jabalpur M.P.
12. M/s. Laxmi Techno Services, Ekta Chow, Shanti Vihar, P.S. Saraswati Nagar, Raipur Distt. Raipur (CG)
13. M/s. Shivam Construction & Tele Communication Pvt. Ltd. Indus Garden, P.S. Govindpura, Bhopal (MP)
14. M/s. Milan Enterprises Behind Balaji Hospital, Kapda Market, Kumhari, P.S. Kumhari, Distt. Durg (CG)
15. Sh. Akhtar Bhai, Near Head Post Office Jagdalpur, P.S. City Kotwali, Distt. Jagdalpur (CG)
16. M/s. Gulzar Singh Near Star Diesel Geedam Road, P.S. Geedam, Jagdalpur Distt. Jagdalpur (CG)
17. M/s. M.S. Chandel Near Durga Mandir, Jagdalpur P.S. City Kotwali, Distt. Jagdalpur C.G.
18. M/s. Deepraj Upadhyay Through GMTD, Bilaspur P.S. City Kotwali, Dist Bilaspur, (CG)
19. M/s. Khariya Engineering Works Prop. Sh. Narendra Khariya R/o HIG-1/443 Borsi Extension, P.S. Borsi, Durg (CG)
20. M/s. Sai Travels & Associates Prop. Praveen Tiwari, HIG-1-396, New Borsi Colony P.S. Borsi, Durg. (CG)
21. M/s. Purvanchal Enterprises Prop. Sh. Rajesh Tiwari R/o H.No. 559, Gandhi

Nagar Kosanagar, Post Nehru Nagar, P.S.
Nehru Nagar, Bhilai, Distt. Durg, (CG)

22.M/s. Comfort Travels Bhilai, Through
Durg, Through GMTD P.S. Durg Distt.
Durg, (CG)

23.M/s. Paramount Intelligence Security &
Training Services Behind EAC Colony, P.S.
Civil Lines Raipur, Distt. Raipur (CG)

24.M/s. Active Security Services House No.
4/23, CR Park, New Delhi 110019

25.Mohammad Shamsuddin Khan Raigarh,
Through TDM Raigarh Distt. Raigarh (CG)

26.M/s. Nav Durga Construction Through
Prop. H.K. Shukla Near SGM Public
School Subhash Nagar, P.S. City Kotwali,
Durg, Distt. Durg (CG)

27.M/s. Balajee Electricals Prop. Deepak
Gandhi Shop. No. 80A, Market Sector 1,
Bhilai, P.S. Sector 6, Bhilai Distt. Durg
(CG)

28.Sanket Online Pvt. Ltd. Prop. Dantu,
Jagdalpur, Through TDM P.S. City Kotwali
Jagdalpur Dist. Jagdalpur, (CG)

29.M/s. T.K.D. Construction 22/250, Indira
Nagar, Lucknow, U.P.

30.M/s. Swati Construction, Kariya Pather,
Ghampur, P.S. Jabalpur M.P.

31.M/s. Star Security Prop. Captain J. Singh
R/o O.P. Beriwal Advocate Building
Danipara P.S. City Kotwali, Raigarh, Distt.
Raigarh, (CG).

32.M/s. R.S. Agarwal Prop. R.S. Agarwal R/o
Gita Kunj, E-496/497 Samta Colony P.S.
Saraswati Nagar, Raipur, Distt. Raipur
(CG)

33.M/s. Nishant Heydar, Ambikapur,
Through TDM, Sarguja P.S. Kotwali
Sarguja, Distt. Ambikapur.

Respondents

Shri Mr. Krishna Namdeo : Learned Counsel for Appellant.

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

Arun Patel : Learned Counsel for Respondent No.3.

JUDGMENT

(Passed on 08th day of August, 2025)

The Appellant Establishment has assailed two orders dated 11.08.2011 and 03.10.2013, passed by the Respondent Authority No. 1 under section 7-A of the Employees Provident Fund & Miscellaneous Provisions Act, 1952 (hereinafter referred to as the 'Act') respectively, whereby the Respondent Authority has held the Appellant Establishment liable to deposit EPF dues of employees engaged by different contractors for execution of work of the Appellant Establishment within the period from 01/2004 to 12/2009 and has assessed the amount at Rs. 2,79,19,404/-, has further directed to deposit the amount. Vide order dated 03.10.2013, a review petition filed by the Appellant Establishment seeking review of the order dated 11.08.2011 has been dismissed with a finding that grounds taken in the review petition are not substantiated.

Shorn of unnecessarily details, the skeletal facts connected to the present appeal are mainly that, according to the Appellant Establishment, it was established by Government of India, w.e.f., 01.10.2000 under The Companies Act, 1956 and is successor in interest of the Department of Telecommunication, engaged in creating and maintaining telecommunication infrastructure in the country except metropolitan cities of Delhi and Mumbai, it is covered under the Act and has been allotted separate PF Code and has been depositing the PF dues of its employees regularly. It awards work contracts, civil contracts, maintenance contracts to different successful bidders on the basis of open tenders for the work of cable laying, installations, security, supply of vehicles, maintenance of computers and electrical equipments as well various related work, these contractors are not under control and supervision of Appellant Establishment, they get these working executed as per the terms of work agreement by employing workers at their level. The records of the employees of contractors are maintained by them and not by the Appellant Establishment, a show cause notice was issued by the Respondent Authority No. 1 under section 7-A of the Act on 23.08.2004, again another show cause notice was issued on the complaint of some contractor employees, which was with respect to three contractors of Durg, mentioned in the notice. The representatives of the Appellant Establishment appeared in the enquiry which was

conducted by the Respondent Authority arbitrarily and the impugned order was passed on 10.08.2011 by the Respondent Authority under section 7-A of the Act with impugned findings and assessments was unjustly and illegally passed.

Thereafter, as it is the case of the Appellant Establishment, they filed a review petition seeking review of the order. They also filed before the Respondent Authority a reply dated 17.04.2012 making pointwise clarification enclosing a verified labour list, after verification from their field units showing that the employees in the list supplied by the Respondent Authority never worked for the Appellant Establishment either directly or through contractors. This letter dated 04.04.2012 alongwith verification list is *Annexure-A/3* to the appeal. Moreover, the Respondent Authority during the enquiry proceedings under section 7-A of the Act had itself recorded in the proceedings dated 23.09.2009 the fact that the Appellant Establishment submitted the required documents which were taken on record but the impugned order under section 7-A does not mention these records, rather has been observed in the said order that the Appellant Establishment failed to produce records even after 89 dates which is against the records maintained by the Respondent Authority itself. The Respondent Authority erroneously and without application of mind, dismissed the review petition and confirmed the order under section 7-A above referred which is unjust, illegal, arbitrary and malafide, hence this appeal.

Grounds of Appeal, taken in memo of appeal, in paragraph 9 are as many as 26 from paragraph A to Z, are mainly that the impugned order has been passed by the Respondent Authority without examining the definition of 'Employees' as mentioned in the Act. In light of settled proposition of law laid down by the Hon'ble Apex Court in the case of ***Steel Authority of India v/s National Union of Water Front Workers (2001) VII SCC 1*** and without considering the aspect of notice to the contractors as required in the case of ***Bharat Heavy Electricals Ltd. v/s E.S.I. Corporation (2008) III SCC 247***, hence bad in law. The Respondent Authority did not take into account and did not summoned records with respect to the contract labourers from the contractor which they were required to maintain under Rule 74 & 75 of Contract Labour (Regulation & Abolition) Central Rules, 1971 and also did not collect evidence, the complainants or persons who claimed themselves to be the contract labourers were infact engaged by the contractors particularly when this fact was denied by the Appellant Establishment, hence committed error in law.

That the Respondent Authority passed the impugned order without identifying the beneficiaries which is bad in law. In light of settled proposition of law, in this respect the impugned orders passed by the Respondent Authority is erroneous and without application of mind and is perverse as it is against evidence on record. The Respondent Authority further committed error in law, in not considering the principle of law laid down by Hon'ble Supreme Court, in its judgment reported in ***(2001) II SCC 619 & (1991) II SCR 477***, which laid down that, "*it*

would be unfair and unjust to recover PF dues for past periods in a situation where employer is not meant to pay". The Respondent Authority did not consider the fact that those contractors who were allotted separate PF codes hence acted against law in holding the Appellant Establishment liable as Principal Employer. The impugned order is arbitrary and in violation of principles of natural justice, hence bad in law.

In its counter to appeal, the Respondent Authority has taken a case that the Act is applicable to any Establishment which employs 20 or more persons in a day and where no other PF scheme is available. The Act is beneficial legislation and any provision which is capable of two interpretations will be interpreted in a way which furthers the interest of beneficiaries. The Appellant Establishment is covered under the Act and has been allotted separate PF Code on complaint made by some contract workers and unions, notice was issued by the Respondent Authority on 23.08.2004 to show cause. The Appellant Establishment did not respond to the notice, hence again a notice dated 14.09.2004 was issued to them. During the course of enquiry, several complaints from contractual employees of various unions were received alleging non-extension of PF benefits by the Appellant Establishment, a separate notice was again issued to the Appellant Establishment, they appeared, the proceedings continued for as many as 7 years in 89 opportunities, the Appellant Establishment failed to produce records required by the Enforcement Officer, hence he submitted his report dated 25.07.2010, thereafter the impugned order under section 7-A of the Act was passed which is a well speaking and well discussed order. Further, according to the Respondent Authority, the Appellant Establishment preferred a review petition under section 7-B of the Act vide its letter dated 22.08.2011. This petition was considered and the Appellant Establishment was again directed to submit the newly discovered facts which could not be produced by them during hearing under section 7-A of the Act. The review proceedings also took 20 months and 27 opportunities but the Appellant Establishment failed to produce required records. The Enforcement Officer submitted his report dated 03.10.2013 and the review petition was dismissed by a well discussed and reasoned order. The Appellant Establishment was directed to deposit the amount in which they failed, hence their account was attached. The Banker of the Appellant Establishment forwarded a Demand Draft dated 06.04.2014 for the amount of Rs. 1,36,87,697.50/- . Further remaining amount of Rs. 1,42,31,707/- proceeded with respect to recovery are in process.

According to the Respondent Authority, the Appellant Establishment, being Principal Employer is jointly and severely liable to ensure that compliance of the provisions of the Act are made by its contractors and PF deposits of workers engaged by contractors for the work of Appellant Establishment are deposited in time as required under the Act in the scheme. Further, according to the Respondent Authority, the impugned order has been passed on the basis of record available which is correct in law and fact, it does not require any interference.

The Respondent No. 3 has also filed its counter in which they have mainly endorsed and adopted the counter of Respondent Authority.

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

I have heard **argument** of Learned Counsel Mr. Krishna Namdeo for the Appellant Establishment and Mr. J.K. Pillai Learned Counsel for Respondent Authority and Mr. Arun Patel for Respondent Authority No. 3, rest of the respondents never appeared inspite of notice. The Respondent Authority has filed written submission also which are part of record. I have gone through the written submission as well the record.

It comes out from the perusal of record in light of rival arguments that there is no quarrel between the parties with respect to the liability of the Principal Employer as well contractors in deposit of the PF dues of workers employed by different contractors for the work of the Principal Employer. The dispute in the present case is mainly with respect to whether the beneficiaries have been identified properly by the Respondent Authority while recording the impugned findings and assessments.

As it comes out from perusal of impugned order that according to the Respondent Authority, as many as 89 dates were given and inspite of that, the Establishment failed to produce records required. It also comes out from the perusal of this order dated 11.08.2011 that the Enforcement Officer had visited the Establishment on 28.07.2008, he had prepared a report on 11.11.2009 in which he had stated that the Establishment produced the list of the contractors deployed by S.S.A. Raipur only, there are some discrepancies in the data provided by the Establishment and the complainant and it was proposed that the exact data may be called from the Establishment and the complainants which the Establishment could not produce, the said report dated 11.11.2009 is on record as photocopy.

A perusal of this inspection report Dt. 11.11.2009 reveals that the list of contractors deployed by S.S.A. Raipur comprising of District Raipur, Mahasamund and Dhamtari for the period 2004-2005 to 2008-2009 with details in four copies and details of EPF remittances made by three contractors bearing EPF Code No. CG/18917, CG/18233 and CG/18088 were produced before the Enforcement Officer, these are not the complete desired details according to him as he mentions in the report and this fact was brought into notice of the representative of the Establishment. Also, it come out from the report that list of the contractors submitted by Establishment mentioned that the list is itself was found incomplete by him, the EPF Code No. or PF compliance details were not produced though these were directed to be produced in proceedings dated 23.01.2009. It further mentions that the desired information mainly list of the contractors deployed by BSNL year-

wise and contractor-wise deployment of workers as well compliance made towards EPF dues were required to be made available for verification.

It further mentions that it was brought to the notice of BSNL that in due course of inspection, it came to the notice of the Enforcement Officer that due verification of PF compliance by the contractors was not being done by the Establishment before releasing the bills to the contractors.

Further, it is revealed from the perusal of record that during proceedings, the Establishment produced a list of employees which the complainants and worker unions i.e., Respondents in the appeal had claimed to be workers of the contractor, this list was overlooked by the Respondent Authority which is an error in law committed by him in its order under section 7-B of the Act. The Respondent Authority has observed that the review petition was filed on four grounds as mention in Para '6.(a) to 6.(d') of the petition which are as follows:-

"6.a. That the order dated 29-07-2011 has been issued by your good office inspite of our request letter submitted vide letter no. LC-04-02/EPF case 17447/Part-V/14 dated 16-07-2011 in which certain facts and issues were brought to your kind notice. The same may please be reconsidered.

6.b. The assessment of Rs.2.79 crore has been made without taking into account the EPF details submitted to your good office vide this office letter dated 22-12-2009.

6.c. That the list given by Theka Mazdoor Union is not fully correct and needs complete review. The same is being reviewed by all respective SSAs and discrepancies in number of labour has been found during verification.

6.d. That this office has submitted time to time, the information of EPF amount deposited by the contractors in favour of the contractual labours. The same amount has not been considered while passing the order. Some details are enclosed annexure A-1(3/140 to 140/140). Rest of the details being prepared during verification and complete details will be submitted in due time."

The Respondent Authority has observed that point No. 6.(a) was already considered while passing the order under section 7-A of the Act holding that inspite of the enquiry within the span of seven years, the Establishment could not produce the records nor did they cooperate with the Enforcement Officer in verification of record and other grounds are afterthought stories because the list provided by the Establishment during the proceedings under section 7-B of the Act shows that the amount already deposited by them is not disputed whereas the amount assessed is the outstanding amount payable additionally by Establishment and since the Establishment had failed absolutely to produce record in hand both of the enquiry

under section 7-A and 7-B of the Act and as such the Assessing Authority was left with no alternative but to assess the dues on the basis of documents provided by the complainant union..

Learned Counsel for the Establishment submits on this point that details of the document provided by the workman union of which the finding with respect to assessment was recorded, have neither mentioned in the report of the Enforcement Officer nor in the order under section 7-A and 7-B of the Act.

Learned Counsel further submits that the Establishment had filed a list of the workman supplied to them by different contractors who were never engaged by these contractors, this list was filed during the 7-B proceedings on 04.04.2012 and 17.04.2012.

In para 36(B) of *The EPF Scheme, 1952 (the Scheme)*, the contractor is required within 7 days of closing of every month, to submit to the Principal Employer a statement showing the recoveries of contributions with respect to employees employed by or through him and shall also submit to the Principal Employer such information, as the Principal Employer is required to submit under the provisions of the Scheme to the Commissioner.

Learned Counsel for respondent has submitted that it was the duty of the Establishment being Principal Employer to get such documents in which they failed and now shifting the onus of identification of employees on the Respondent Authority which is not justified in law. Learned Counsel further submits that the list said to be obtained from the contractors, filed during the proceedings as referred above which contains the name of the workers and were not engaged by the contractors at any time is not genuine because this is not signed by the contractors and it is not corroborated by any evidence.

The fact whether the workers who claimed themselves to be the employees of the contractor can be ascertained from the statutory registers namely, register of employees, wages register, etc maintained by Principal Employer and contractors section 29 of the Contract Labour & Regulation Act, 1970 is being reproduced as follows:-

“29. Registers and other records to be maintained.—

(1) Every principal employer and every contractor shall maintain such registers and records giving such particulars of contract labour employed, the nature of work performed by the contract labour, the rates of wages paid to the contract labour and such other particulars in such form as may be prescribed.

(2) Every principal employer and every contractor shall keep exhibited in such manner as may be prescribed within the

premises of the Establishment where the contract labour is employed, notices in the prescribed form containing particulars about the hours of work, nature of duty and such other information as may be prescribed.”

Rules 75 & 78 of Contract Labour Regulation & Abolition Central Rules, 1971
are required to be referred here which is being reproduced as follows:-

“75. Register of persons employed.-Every contractor shall maintain in respect of each registered Establishment where he employs contract labour a register in Form XIII.

78. Muster Roll, Wages Registers, Deduction Register and Overtime Register. - [(1) (a) Every contractor shall in respect of each work on which he engages contract labour,-

(i) maintain a Muster Roll and a Register of Wages in Form XVI and Form XVII respectively: Provided that a combined Register of Wage-cum-Muster Roll in Form XVII shall be maintained by the contractor where the wage-period is a fortnight or less;

(ii) maintain a Register of Deductions for damage or loss, Register of Fines and Register of Advances in Form XX, Form XXI and Form XXII respectively;

(iii) maintain a Register of Overtime in Form XXIII recording therein the number of hours of, and wages paid for, overtime works, if any.

(b) Every contractor shall, where the wage-period is one week or more, issue wage slips in Form XIX, to the workmen at least a day prior to the disbursement of wages.

(c) Every contractor shall obtain the signature or thumb-impression of the worker concerned against the entries relating to him on the Register of Wages or Muster Roll-cum-Wages Register, as the case may be, and the entries shall be authenticated by the initials of the contractor or his authorised representative and shall also be duly certified by the authorised representative of the principal employer in the manner provided in rule 73.

(d) In respect of Establishment s which are governed by the Payment of Wages Act, 1936 (4 of 1936) and the rules made thereunder, or Minimum Wages Act, 1948 (11 of 1948) or the rules made thereunder, the following registers and records required to be maintained by a contractor as employer under those Acts and the rules made thereunder shall be deemed to be registers and records to be maintained by the contractor under these rules, namely:-

- (a) Muster Roll;*
- (b) Register of Wages;*
- (c) Register of Deductions;*
- (d) Register of Overtime;*
- (e) Register of Fines;*
- (f) Register of Advances;*
- (g) Wage Slip.]*

[3] Notwithstanding anything contained in these rules, where a combined or alternative form is sought to be used by the contractor to avoid duplication of work for compliance with the provisions of any other Act or the rules framed thereunder or any other laws or regulations or in cases where mechanised payrolls are introduced for better administration, alternative suitable form or forms in lieu of any of the forms prescribed under these rules, may be used with the previous approval of the [Regional Labour Commissioner (Central)]."

It is clear from the fact whether the persons named in the said list filed by the Establishment, said to be obtained by them from the contractors which states that these persons never worked with these contractors could be ascertained from the contractors by way of summoning the documents as mentioned above in the relevant rules which the contractors are under obligation to maintain. The Establishment, who is the Principal Employer, does not maintain the list of the employees nor does it maintain any Muster Roll or Wage Register relating to the workers of the contractors. The Respondent Authority was under legal obligation to ascertain these facts as to whether the persons who claimed to be the workers of the contractors were infact the workers of the contractors engaged with the work of Principal Employer, the Establishment in the case in hand, after summoning the register required to be maintained by the contractors under rules as mentioned above, in not doing so, the Respondent Authority has committed error in law in assessing the amount.

In light of above discussion and finding, the matter requires to be remanded back to the Respondent Authority with a direction to them to issue notice to the contractors who are the respondents in the case in hand and ask them to submit the registers which they are required to maintain under Rules 75 & 78 detailed above and thereafter, to ascertain the identities of the alleged beneficiaries. He is further required to specifically mention in his order about the documents/evidence produced by the complainants, workers and unions from the basis of his findings.

No other point was pressed.

In order of the above discussion, the appeal is disposed as follows.

ORDER

Setting aside the impugned order under section 7-A & 7-B of the Act, the matter is remanded back to the Respondent Authority with a direction to him to summon the contractors and require them to file the documents with respect to the workers engaged by them for the work or in connection of work of the Appellant Establishment , as mentioned in Rule 75 & 78 and thereafter record a specific finding with respect to the beneficiaries. After fixing identity of the beneficiaries, the Respondent Authority shall proceed for assessment of the amount. The whole exercise be done within Six months, as the matter is very old. The Appellant Establishment is held entitled to get back amount recovered from the under the impugned order with interest which is charged by the Organisation on delayed deposit of EPF dues of employees.

No order as to cost.

Date:- 08/08/2025

P.K. Srivastava
(Presiding Officer)

Judgment Signed, dated and pronounced.

Date:- 08/08/2025

P.K. Srivastava
(Presiding Officer)

