

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

**EPF Appeal No.- 20/2022**

**Present – P.K. Srivastava**

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

**1. DN Jain Higher Secondary School,  
Under aegis of D.N. Jain Housing Board Society,  
Through its Secretary,  
Gol Bazar, Wright Town,  
Jabalpur (M.P.)**

**Appellant**

**Vs.**

**1. Employees Provident Fund Organization,  
Through, Assistant Provident Fund Commissioner,  
Regional Office,  
Bhavishya Nidhi Bhawan,  
Vijay Nagar, Jabalpur (M.P.) 482002**

**2. State of Madhya Pradesh,  
Through Secretary,  
School Education Department,  
Vallabh Bhawan, Bhopal (M.P.)**

**Respondents**

**Shri Uttam Maheswari : Learned Counsel for Appellant.**

**Shri Rahul Chourasia : Learned Counsel for Respondents.**

**JUDGMENT**

**(Passed on 6<sup>th</sup> day of February, 2026)**

**The present appeal is directed against the order dated 18.02.2022, passed by Respondent Authority under section 14-B & 7-Q of *The Employees Provident Fund & Miscellaneous Provisions Act, 1952*, hereinafter referred to as the ‘*Act*’, by which the Respondent Authority has recorded a finding that the Appellant Establishment has defaulted the deposit of EPFO dues of its employees within the period from**

December, 2000 to February, 2021 and has assessed the amount of penal damages u/s 14-B of the Act at Rs. 10,80,598/-, and interest under section 7-Q of the Act at Rs. 10,27,425/-, has directed to pay this amount as penal damages as well the interest.

**The skeletal facts connected to present appeal** are mainly that, Appellant Establishment is a grant-in-aid institution constituted under the provisions of the M.P. Society Registrakaran Adhiniyam, 1973 and functions under the control and supervision of Respondent No. 2, receives salary and Provident Fund amounts from the State Government, which were kept in a joint nationalized bank account, under the joint control of the employees and Respondent No. 2.

Despite the pending challenge to the applicability of the Act of 1952 before the Hon'ble High Court of M.P. in W.A. 99 of 2016, the Respondent No.1 issued a show-cause notice dated 11.10.2021 proposing penal interest and damages by treating the transfer of Provident Fund accumulations as delayed also representation dated 14.12.2021 to Respondent No. 1 in respect to penal damages/interest has been issued, even though the amounts were received from Respondent No.2 without causing any loss to employees or financial liability to the Appellant Establishment. The Respondent No.1 thereafter without considering the pendency of the aforementioned litigation or the submissions advanced by the Appellant Establishment, passed the impugned composite order U/s 14-B and 7-Q of the Act rejecting the contention of the Appellant Establishment, hence this Appeal.

**Grounds of Appeal, taken in the memo of appeal are mainly** that the Respondent No.1 erred in mechanically imposing penal interest and damages without exercising statutory discretion, ignoring settled law that grant-in-aid educational institutions cannot be treated at par with commercial establishments and that maximum damages cannot be imposed. The impugned order failed to consider that the transferred accumulations included interest already earned by employees, resulting in impermissible levy of "interest on interest" and "damages on interest," contrary to Sections 14B and 7Q, and was passed without determining any loss to beneficiaries, frequency of delay, or regular remittance of contributions, as mandated by the law laid down in *Organo Chemical Industries*.

The Respondent No.1 erred in law and fact by mechanically imposing damages despite settled judicial precedents holding that “default” under the EPF Act implies willful or substantial failure to remit contributions, whereas in the present case contributions were deposited within a short delay without any loss to employees. The impugned order ignores binding decisions of the Hon’ble Supreme Court and various High Courts which mandate that damages under Section 14B must correlate with actual loss to employees, frequency and duration of defaults, amounts involved, mitigating circumstances, and existence of *mens rea* or *actus reus*. In absence of any determination of loss, habitual default, financial misconduct, or intent to evade payment, and without considering that the prescribed scale under Para 32A is only the maximum limit, the imposition of damages is arbitrary, illegal, and liable to be quashed.

**In its counter to appeal**, the Respondent No.1 has defended the impugned order on the ground that the applicability of the Act could be decided in the light of the provisions of the Act. Letter of coverage is a simple reminder. The liability of the Appellant Establishment to pay the employees provident fund dues of its employees has been adjudicated in separate proceedings under Section 7A of the Act and is final between the parties. Payment of damages and interest are consequential to the main order, thus according to the Respondent Authority, there is no error of law and fact in the impugned order.

I have heard argument of Mr. Uttam Maheshwari, Learned Counsel for the Appellant Establishment, Mr. Rahul Chourasia present for Learned Counsel for the Respondent Authority. I have gone through the written submission filed by the Appellant Establishment and have gone through the record as well.

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

***“Whether the finding of the Respondent No.1 that the Appellant Establishment is liable to pay damages under Section 14B and interest under Section 7Q of the Act for delayed payments of employees provident fund contributions of its***

***employees between the period December, 2000 to February, 2021 and the assessment can be faulted in law or fact or not?"***

Both the learned counsel have attacked and defended the impugned finding in their arguments. The main contention of learned counsel for Respondent No.1 is that imposition of interest under Section 7Q of the Act is only consequential when the liability to pay employees provident fund dues by the Appellant Establishment for the period in question has been settled and has become final. The Appellant Establishment cannot escape from paying interest on damages under Section 7Q of the Act. This is also because the Respondent No.1 has to pay interest to the contributions on their deposits. The arguments of learned counsel for Appellant Establishment on this point are mainly that the Appellant Establishment cannot be held liable to pay interest for pre discovery period.

Section 1(3) of the Act requires to be reproduced here, which is as follows:-

***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 6ftwenty 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:***

***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 8 twenty as may be specified in the notification.***

A simple reading of this provision makes it clear that an establishment is under obligation to pay employees provident fund dues of its employees and is covered under the Scheme automatically as and when conditions mentioned as above are satisfied. Thus the arguments of learned counsel for Respondent No.1 that the Appellant Establishment is covered under the Act for provident fund deposits since December, 2000 when the conditions under Section 3(a) and 3(b) as mentioned above, are satisfied and letter of coverage does not make any difference

in this liability, is liable to be accepted accordingly. This is also to be mentioned here that liability to pay interest under Section 7Q is a consequential one. In the case in hand, when the liability to pay employees provident fund dues for the period in question has become final between the parties, the Appellant Establishment is under obligation to pay interest for late deposits under Section 7Q of the Act, hence the finding of the Respondent Authority with regard to liability under Section 7Q of the Act and assessment cannot be faulted in law or fact and is affirmed accordingly.

As regards the liability of the Appellant Establishment to pay damages under Section 14B of the Act for the late deposits and assessment, the learned counsel for the Appellant has referred to decision of *Hon'ble the High Court of M.P. in Naveen Vidya Bhawan Vs. Union of India (2015)(111) CLR 484, Manu/M13/0814/2015*, the facts of the case referred are same with the case in hand. In the referred case Hon'ble High Court of M.P. has reduced the damages under Section 14B of the Act to 25% of the assessed amount, para 7 & 9 of this judgment are being reproduced as follows:-

*7. Section 16(1) (b) as amended can apply only if there is a finding that the institution is covered by some scheme. In the instant case as pointed out, the petitioners are required to abide by the provisions of Rule 10 of the M.P. Ashaskiya Shikshan Sanstha (Institutional Fund) Rules, 1983 and to make deduction towards the contributory fund and under clause (6) of Rule 10. Old procedure for deposit of the provident fund given in sub-rules (1) to (6) of Rule 10. The applicability of the Employees' Fund & Misc. Provisions Act, 1952 has been specifically stated and the deposits have to be made to the accounts maintained as per scheme of the Act. Thus, it is amply clear that the provisions of the Central Provinces & Berar Manual Appendix XVIII do not apply to the present case.*

*Even if the petitioners are following the said arrangement, the said arrangement cannot continue as the petitioners are not covered by Section 16 (1) (b) of the Act, also in view of State Act of 1978 & Rules.*

*9. In the instant case, the petitioners submit that they have been depositing the provident fund as per Appendix XVIII of the C.P. & Berar Education Manual. The question is whether they can be allowed to continue with the said arrangement and the view which we have taken the petitioners cannot be allowed to retain the amount already collected and whatever amount has been collected will have to be*

*deposited in the Reserve Bank or the State Bank as per the provisions of Employees Provident Fund & Misc. Provisions Act, 1952 & Scheme.*

In the light of the case referred above, keeping in view the facts and circumstances which are similar to the case in hand, holding the findings of the Respondent No.1 regarding the liability of the Appellant. Establishment to pay damages under Section 14B of the Act for delayed payments is justified in law and fact. The assessment is reduced to 25% of the assessed amount under Section 14-B of the Act in the impugned order.

**Point for determination stands answered accordingly.**

No other point was pressed.

In light of above discussion and finding, the Appeal succeeds partly.

**ORDER**

**Appeal succeeds partly. The liability and the assessment of amount under Section 7Q of the Act in the impugned order is confirmed. The liability and assessment of amount under Section 14B of the Act in the impugned order is reduced to 25%.**

**No order as to cost.**

**Date:- 06-02-2026**

**P.K. SRIVASTAVA  
(PRESIDING OFFICER)**

**Judgment Signed, dated and pronounced.**

**Date:- 06-02-2026**

**P.K. SRIVASTAVA  
(PRESIDING OFFICER)**