

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1

MUMBAI

Present

Smt.Pranita Mohanty
Presiding Officer

M/s. GeBBS Healthcare Solutions Pvt. Ltd. ... Appellant
Vs

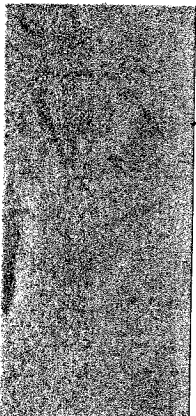
Regional Provident Fund Commissioner ... Respondent
Navi Mumbai

Presence:

For the Appellant : Mr. H.L.Chheda,
Authorized Legal Representative.
For the Respondent : Mr. Suresh Kumar, Adv.

ORDER

This order deals with an application filed by the appellant of a disposed off appeal invoking the provision of law laid u/s 7L(2) of the EPF &MP Act, for review of the order dt 28/09/2021 passed by this Tribunal setting aside the impugned order and remanding the matter for fresh assessment by the commissioner .



Notice of the petition was served on the Respondent and the matter came up today for consideration.

It has been stated in the petition that the Appeal was filed challenging the order passed by the commissioner u/s 7A of the EPF & MP Act. This Tribunal while passing the final order quashed the impugned order and directed the respondent authority for fresh inquiry to be completed within three months. The time so stipulated is over, but the inquiry is yet to commence. The AR for the appellant further submitted that on going through the final order dt 28/09/2021, passed by this Tribunal some mistakes were found apparent in the order. In the interest of justice, those errors need to be corrected before commencement of inquiry by the commissioner.

He pointed out that in first para 4th line and 2nd para 9th line the period of inquiry has been mentioned as 04/2009 to 02/2005 though the correct period of inquiry is from 04/2009 to 08/2014. Similarly in the 4th para of the order definition of worker as defined under section 2(r) has been mentioned whereas there is no provision as sec 2(r). he also pointed out that the Tribunal also erred in law by holding that not only the basic pay but the pay of the employees is to be considered to decide if the employee is an excluded employee or not. He thus argued that these errors apparent on the face of the record may cause prejudice to the applicant and need to be corrected.


In his reply the learned counsel for the opposite party/Respondent submitted that the scope of Review u/s 7L(2) is limited to correction of errors which is apparent on the face of the record. But in his petition the petitioner has raised many questions touching the merit of the

appeal, which can not be entertained. If it is so done, the same will have the effect of re hearing of the appeal on merit by the tribunal for review of it's own final order passed, which is not permissible under law. He thereby argued for rejection of the application in respect of the correction sought in respect of the interpretation of law by the Tribunal while passing the final order.

In the case of **Food Corporation Of India ,Dirba vs RPFC,Bhatinda,decided by the Hon'ble High Court of Delhi in WPC5678/2013**, the Hon'ble court have held that the power of review can be exercised to rectify any factual mistake, calculation or error of like nature. The Tribunal , in the grab of this power can not recall or reverse it's own order.

On hearing the submission advanced by the counsel for both the parties and perusal of the provision of sec 7L(2) it appears that the tribunal within a period of 5 years from the date of the order is empowered to rectify any mistake apparent from the record by amending the order passed. But the provision never empowers the Tribunal to rehear the matter on merit when some points are re canvassed after disposal of the appeal. In view of the stand taken by the parties ,it is clear that the correction in para 1 4th line and para 2 9th line is required to be made . In these paras the period of inquiry shall be corrected as "04/2009 to 08/2014. Similarly in para 4 of the order the words "as defined u/s 2 (r) of the Act shall stand deleted. Office is directed to carry out the corrections and make the corrected copy of the order available to both the parties.

Be it stated that the provision for rectification of an order, stems from the fundamental principle that justice is above everything, The power for review is an exercise to remove the error and not for disturbing the finality. In the present matter the Review prayed for if would be allowed in toto , the same will have the effect of the Tribunal hearing an appeal against it's own order, which is not permissible under the provisions of sec 7L(2) of the EPF&MP Act. Hence the correction as prayed is allowed to the extent as mentioned above.



PRESIDING OFFICER
CGIT-1 MUMBAI