

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

**NO. CGIT/LC/EPFA-46-2017**

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

**M/s Nav Bharat Press Pvt. Ltd.**  
**Bhopal(M.P.)**

**APPELLANT**

**Versus**

**Assistant Provident Fund Commissioner**  
**Jabalpur (M.P.)**

**RESPONDENT**

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**Shri Pranay Choubey** : **Learned Counsel for Appellant.**

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

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**(J U D G M E N T)**

**(Passed on this 8<sup>th</sup> day of April-2021)**

1. The present appeal is directed against the order dated 10-1-2012 and 12-8-2011 passed by the Respondent Authority whereby the Respondent Authority dismissed the petition for reviewing order dated 12-8-2011 passed by it , hence the original order under Section 7(A) of Employees Provident Fund & Misc. Provisions Act,1952, hereinafter referred to as the word 'Act' dated 12-8-2011 and order passed on petition for review dismissing the review petition which

is order dated 1-10-2012 both are under challenged in the instant appeal.

2. Facts connected in brief are that the appellant establishment M/s Naw Baharat Press (Bhopal Pvt. Ltd.) engaged in printing and publishing Hindi daily newspaper, it has branches in other cities including Jabalpur. The Respondent Authority made an inspection of the appellant establishment on 26-2-2009, wherein some alleged discrepancies in the compliance provisions were indicated. The Inspection Squad recommended initiation of an inquiry under Section 7A of the 'Act', hence summons under Section 7A of the Act were issued on 27-2-2009 on the appellant establishment for the period 2003 to 2008 with a direction to the employer to appear on 20-3-2009. According to the appellant establishment, the employees of appellant establishment who received the summons did not inform the Head Office at Bhopal as they had connived with the rival print media owners and acted malafidely. Pursuant to the summons the Respondent Authority started proceedings under Section 7A of the Act, the then Manager of Jabalpur Unit of appellant establishment appeared before the Respondent Authority but later on he did not appear and did not attend the proceedings because he was under the influence of rival print media. He also provided wrong information to the Respondent Authority, leading the Respondent Authority to pass the impugned original order dated 12-8-2011. It is further the case of the appellant establishment that when the appellant establishment i.e. head quarter came to know

about the aforesaid order, it filed a Review Petition under Section 7B of the Act which was wrongly dismissed by the Respondent Authority as time barred without going into the merits. According to the appellant establishment, the two impugned orders are bad in law and facts and they cannot be sustained in law . The main ground for appeal is that the notices under Section 7A were not issued to proper authorities, hence the inquiry itself was bad in law and the findings in the two impugned orders are also bad in law as they are based on an inquiry which has been forced in law.

3. The Respondent Authority has defended the impugned order with a submission that notices were issued to the Appellant Establishment and were served on its Agents & Servants in Jabalpur Office and they did participate on several dates and the order was not ex-parte. The Order is based on facts. The findings arrived at are based on law and evidence on record, hence they cannot be said to be bad in law. The Review Petition was also rightly refused as being barred by limitation and on the ground that the impugned first order was not an ex-parte order.
4. I have heard arguments of Shri Pranay Choubey, learned counsel for the appellant and Shri J.K.Pillai, learned counsel for the respondent. I have also gone through the record.

5. The main argument of learned counsel for appellant is that the notice issued under Section 7A of the Act was not served on proper authority, hence the whole inquiry has no force in law. Learned counsel referred to Section 15 of the Working Journalist Act which provides “that Newspaper is a factory under the Factories Act”. He further referred to Section 2E of the ‘Act’ which defines the word employer which reads as follows:-

6. Section 2E:-

Learned counsel also further refers to Section 7A Sub Section 3 of the Act, which reads as under:-

Section 7A(3):-

7. According to learned counsel for appellant the notices were not issued to the employer in the main office as defined in the Act rather it was issued to the employees who were working in the Jabalpur Office who were not in the category of employer as defined in the Act referred to above. The employees at Jabalpur office did not inform the employer at Main Office and did not put forward the complete facts before the Respondent Authority as they were in connivance with the rival print media.

8. On the other hand, learned counsel for the respondent defends the impugned order and service of notice with an argument that the employees at Jabalpur branch are the Agents & Servants of the employer and any act done by the agents and servants of employer

binds the employer. He also submits that there is nothing on record shown by appellant establishment that the employees at Jabalpur Office who were representing the appellant establishment were in connivance with the rival print media and were acting malafidely.

9. In the light of perusal of the record, in the aforesaid rival argument, the point for determination which comes up in the case in hand is whether **“the finding of the Respondent Authority that service on the Manager of Appellant Establishment at Jabalpur Branch was sufficient on the employer or in other words whether the Manager at Jabalpur Branch could be deemed to be the Agent and Servant of the Employer, as mentioned under Section 2E of the Act.”**

10. The legal provisions in this respect has been mentioned earlier in this judgment. The services was done on the Manager at Jabalpur Branch is also not disputed. Section 2E defines the word Employer as Agent of the Owner or Occupier also, meaning thereby agent of the owner or the occupier will also be deemed to be an employer for the purposes of the Act. The Manager at Jabalpur Branch are Agents and servants of the employer at Bhopal Branch which is main branch because they are employed and authorized by the Main Branch Employer to receive summons and participate in the proceedings. The Appellant Establishment has not shown any circular issued by them prohibiting the Manager at Jabalpur Branch from receiving notices under the Act and participating in

proceedings under the 'Act'. There is nothing on record except an allegation against the Agents and Servants at Jabalpur Branch that they connived with the rival print media. Hence in the light of the above discussion the aforesaid finding of the Respondent Authority cannot be faulted in law and the first order cannot be termed to be ex-party, therefore the finding of the Review Authority that the first order is not an ex-parte order is also held justified in fact and law.

*11.* No other ground has been pressed.

*12.* On the basis of the above discussion the appeal lacks merits and is liable to be dismissed with costs.

**ORDER**

**Appeal stands dismissed with costs.**

**No order as to costs.**

**(P.K.SRIVASTAVA)**

**PRESIDING OFFICER**

**JUDGMENT SIGNED , DATED AND PRONOUNCED.**

**(P.K.SRIVASTAVA)**

**PRESIDING OFFICER**

**Date:8-4-2021**