

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

EPF Appeal No.- 22/2022

Present – P.K. Srivastava

H.J.S. (Retd.)

**Sindhi Education Society,
Through: President, Shir Mohan Lal Batra,
O/o Sindhi Higher Secondary School,
Nai Basti, Katni (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.)**

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Respondent

Shri Uttam Maheswari	:	Learned Counsel for Appellant.
Shri J.K. Pillai	:	Learned Counsel for Respondent.

JUDGMENT

(Passed on 13th day of June, 2025)

The present appeal is directed against the order of Respondent Authority dated 21.03.2022, by which he recorded a finding that the deceased husband of the complainant/ intervener was on roll of employees of the Appellant Establishment on the day of coverage of the **Employees Provident Fund And Miscellaneous Provisions Act, 1952** (in short the 'Act') that is on



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01.04.1982, and was a member of provident fund till 30.06.2013. Further held, the Appellant Establishment liable to deposit his PF dues assessed at Rs. 3,36,861/- and directed the Appellant Establishment to pay it within 15 days of the order.

The facts in brief connected to the appeal are mainly that, the Appellant Establishment is a registered society which runs a School which is on Grant of Aid by the State Government. One Laxmi Chand Tharwani was a teacher in the school, who was member of the PF scheme in force at that time. His PF contributions were deposited in joint bank account along with the PF contributions of the other employees. The employees could withdraw the amount of PF which was adjusted against final payment. The Respondent Authority directed remittance of the contributions to them from 01.01.2008. Several employees including Late Laxmi Chand Tharwani, the deceased husband of the intervener filed a writ petition before Hon'ble High Court of MP in which directions were issued to the State of M.P. to deposit the amount of interim relief as well provident fund with the Respondent Authority. In pursuance of this direction, the Appellant Establishment deposited the amount related to the intervener's husband and also forwarded the Statutory Form No.19 for withdrawal of PF contributions. The Respondent Authority initiated proceedings for respective of Appellant Establishment since 01.04.1982 as per the report of the Enforcement Officer filed by him, in the enquiry before the Respondent Authority. The Appellant Establishment requested the employees to refund the amount of PF withdrawn by them, and deposited Rs. 43,35,586/- the amount received from various employees with the Respondent Authority, which was relating to the period between 01.04.1982 to 31.12.2007. Late Laxmi Chand did not refund the amount of PF received by him hence his amount was not deposited with the Respondent Authority. He retired in 2013, thereafter his widow filed a case before Hon'ble High Court of M.P. in which direction was issued by Hon'ble High Court to decide the representation filed by her before the Respondent Authority.

As stated by Appellant Authority, in compliance of this direction of Hon'ble High Court passed in the aforesaid case, W.P. No. 21349/2021 on 04.10.2021, the Respondent Authority issued a notice to the Appellant Establishment to provide it the annual and monthly return in statutory Form 3A and 6A with relation to Late Laxmi Chand vide its letter on 12.11.2021.

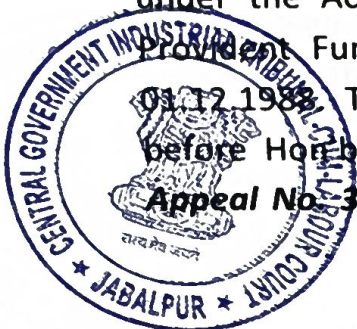
It is further the case of the Appellant Establishment that on receipt of this letter dated 12.11.2021 issued by Respondent Authority, they filed the representation and stated that the said Laxmi Chand had received entire



amount of provident fund contribution, which were required to be deposited by him and Appellant Establishment did not receive any refund of the said amount from Laxmi Chand or his heirs. Hence, the proceedings in this respect should be dropped. Also, it has been stated that, during enquiry proceeding before the Respondent Authority it was assured from the side of heirs of Late Laxmi Chand that they were ready to refund the amount of provident fund, but they never refunded the amount. Furthermore, many employees who had retired as well Shri Laxmi Chand filed an affidavit that they did have any grievance to with respect to provident fund from the Appellant Establishment. The Enforcement Officer submitted his report on 19.01.2022 during the enquiry, which was never supplied to the Appellant Establishment and the Respondent Authority passed the impugned order solely based on the report of Enforcement Officer which is unjust, illegal and arbitrary. Hence, this appeal.

Grounds of Appeals taken by the Appellant Establishment are mainly that the impugned order is unjust, illegal and arbitrary, findings have been incorrectly recorded ignoring the statutory provisions without giving the Appellant Establishment a reasonable and fair opportunity of hearing. The Respondent Authority has exceeded in its jurisdiction in passing the impugned order and assessments.

In counter to the Appeal, the Respondent Authority has taken a case that by virtue of Section 1(3)(B), the Central Government extended the application of the Act, to the educational institutions in the State of M.P. vide its notification no. SO 986 dated 19.02.1982, published in Gazette of India, Part II Section 3(2) dated 06.03.1982. Before this coverage, State Act No. 20 of 1978 was in force in which a scheme for contributory provident fund covering the teachers and employees of aided educational institutions in State of M.P. was prepared in 1983. The State Government had provided in its Rule that, Rule 10(6) of the said rules of 1983, would not apply wherein provisions of the Act apply many thereafter, Rules of 1983 framed by the State Government had excluded from operation of said Scheme as framed under 1983 Rules, those employees to whom the Act that is Central Act applies. The Regional Provident Commissioner passed an order dated 24.01.1991 and 16.07.1991 directing the Educational Institutions receiving grant in Aid and coverage under the Act to deposit the PF Contribution of their employees to the Provident Fund constituted under the Act, for the period 01.08.1982 to 01.12.1988. These orders were challenged by the Educational Institutions before Hon'ble High Court in Writ Petition Which was dismissed and **Civil Appeal No. 3969-70/1994 M.P. Shikshak Congress and others V.s. Union of**



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India and Others filed against the order of Hon'ble High Court before the Supreme Court was also dismissed vide order of Supreme Court dated 01.12.1989 and orders of the Regional Provident Commissioner dated 24.01.1991 and 16.07.1991 were affirmed. This judgment is reported in **(1999) 1 SCC 396**.

Further, according to the Respondent Authority, it was observed by the Supreme Court that were on 01/08/1988, there was any scheme in existence of the State Government which conferred Contributory Provident Fund benefit to the employees covered earlier by virtue of the Central Act of 1952 or not, is a matter which the Regional Provident Commissioner will have to examine if such a contention is raised before him by the Applicants therein and the matter was remitted to the Regional Provident Fund Commissioner only for the limited purposes of examining whether for the period between 01.08.1988 to 01.12.1988 the provisions of the Act are applicable to the concern educations or not.

Furthermore, as pleaded by Respondent Authority, the Regional Provident Fund Commissioner passed an order dated 13.03.2000 in compliance of the order of Hon'ble Supreme Court mentioned above, holding that provisions of Section 16(1) (B) of the Act are not applicable to the establishments and they continue to be covered under Section 13 (B) of the Act w.e.f. 01.08.1988 and thereafter. Accordingly, all the aided and non-aided Governmental Institutions, run by societies, management committees, intervene employees or trustees situated in M.P. were directed to comply with the Act w.e.f 01.08.1988 or the date of coverage as the case may be. Therefore, the Appellant Establishment was under legal obligation to deposit PF Contributions of its employees from 04/1982.

It is also the case of the Respondent Authority in its counter that Widow of Laxmi Chand Tharwani employee of the Appellant Establishment filed a writ petition No. 21349/2021 before Hon'ble High Court of MP with a prayer to direct the Respondent Authority to grant her benefit of Provident Fund and pension. This matter was heard and disposed by Hon'ble High Court vide order dated 04.01.2021 with a direction to the Respondent Authority to decide the representation of the petitioner Widow within 60 days from the date of receipt of certified copy of the order and it was in compliance of this order passed by Hon'ble High Court notices were issued by Respondent Authority to the Appellant Establishment for enquiry considering the report of Enforcement Officer dated 24.01.2022 which verified that all the employees of the Appellant Establishment were entitled to the benefit of the Act and



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scheme framed therein w.e.f. 04.01.1982 and thus held the Appellant Establishment liable to deposit EPF dues of the deceased employees assessed at Rs. 3,36,861/- for the period 04/1982 to 30.06.2009 that is the date the deceased employee completed 58 years. According to the Respondent Authority the impugned finding and assessment has been correctly recorded and warranted no interference.

I have heard argument of Learned Counsel for Appellant Establishment Mr. Uttam Maheswari and Mr. J.K. Pillai for Respondent Authority. Learned Counsel Deepti Kanwar has also been heard on behalf of the interveners. Parties have filed written arguments also which is part of the record. I have gone through the written arguments and record as well.

On perusal of record in the light of rival arguments following points comes out for determination:

Whether the findings of the Respondent Authority that the Appellant Establishment is liable to deposit the PF dues of its Late Employee Laxmi Chand and the assessment has been recorded correctly in law and fact?

Main argument of the Learned Counsel for Appellant Establishment is that, the finding holding the Appellant Establishment liable to deposit the PF Contributions of its late employee Laxmi Chand and the assessment have been incorrectly recorded.

Learned Counsel has further submitted that, the impugned order is based on the finding of Enforcement Officer, submitted by him in form of his report before the Respondent Authority, over which the Appellant Establishment has not been given opportunity of hearing. According to Learned Counsel, copy of this report of Enforcement Officer which is basis of the findings was not supplied to them in spite of the fact that there is repeatedly asked for it. Hence, the whole enquiry has been conducted against principles of natural justice.

Learned Counsel for Respondent Authority, has counter this argument with a submission that the impugned order itself states that copy of a report of Enforcement Officer was supplied to the Appellant Establishment.

In Para 6(17) of the memo of Appeal, the Appellant Establishment has specifically mentioned that they did not get copy of Enforcement Officer though they submitted an application before the Respondent Authority seeking report of the Enforcement Officer. This allegation has not been specifically countered by Respondent Authority in counter to the reply.



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Perusal of impugned order reveals that, it is mentioned in the impugned order that the report of the Enforcement Officer was filed, copy of the report was handed over to the Establishment as well to Appellant. The case was closed for issuing final order on 11.03.2022 and final order was passed on 11.03.2022. Copy of daily order sheet of 04.03.2022 shows that, the Appellant Establishment submitted an application dated 03.03.2022 before the Respondent Authority. Compliance direction was directed to through right on it and case was adjourned for 09.03.2022. Order sheet of 01.02.2022 filed from the side of Appellant Establishment shows that, the Enforcement Officer filed his report on this date and representative of Appellant Establishment sought a copy of this report. She was directed to collect it from the office. The Appellant Establishment has further filed copy of application dated 11.03.2022 said to be submitted by them before the Respondent Authority in which they have stated that, the report has not been made available to them at any point of time and it was prayed that the report be made available to them. What order was passed by Respondent Authority is not clear. **Rather, the final order was passed on 11.03.2022.**

Perusal of the impugned order shows that, it is a sketchy order, no reasons for any finding has been recorded. The Respondent Authority has simply relied on report of the Enforcement Officer as gospel truth. Reliance on such report, copy of which was not supplied to the Appellant Establishment in spite of their request on the date of final order, and recording of findings only on this report without giving the Appellant Establishment opportunity to the Appellant Establishment to have their say on this report makes whole of the findings and assessment bad in law.

Accordingly, it appears a fit case for setting-aside the order under appeal to remand the matter to the Respondent Authority with a direction that he will supply a copy of the report of Enforcement Officer to the Appellant Establishment, and after giving the Appellant Establishment full opportunity of hearing on this report of Enforcement Officer, pass a fresh judgment with reasons behind findings.

No other point was pressed.

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

ORDER

Setting-aside the order dated 11.03.2022, passed by Respondent Authority the matter is remanded to the Respondent Authority with a direction to hear and decide it a fresh after supplying copy of the report of



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the Enforcement Officer as well connected documents to the Appellant Establishment and after giving the Appellant Establishment sufficient opportunity of hearing on the enforcement report. The Respondent Authority is also directed to record reasons for his findings in his order.


The appeal stands disposed accordingly.

Date:- 13/06/2025


P.K. Srivastava
(Presiding Officer)

Judgment Signed, dated and pronounced.

Date:- 13/06/2025


P.K. Srivastava
(Presiding Officer)

