

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

NO. CGIT/LC/EPFA-123/2017

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

Maharshi Dayanand High School

APPELLANT

Versus

The Regional Provident Fund Commissioner
Sagar.

RESPONDENT

Shri Sanjay Verma

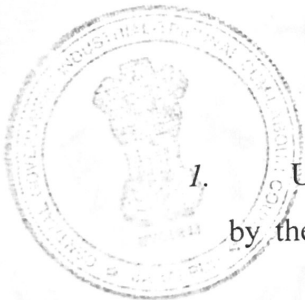
: Learned Counsel for Appellant.

Shri J.K.Pillai

: Learned Counsel for Respondent.

(J U D G M E N T)

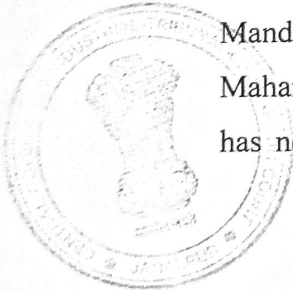
(Passed on this 6th day of January-2022)



1. Under challenge in this appeal is order dated 5-3-2014 passed by the Respondent Authority and Review Order dated 18-7-2014

passed by the Respondent Authority under Section 7A and 7B of the Employees Provident Fund And Misc. Provisions Act,1952, herein after referred to the word Act", whereby the Respondent has held that the Appellant Establishment is under liability to pay employees provident fund dues of its employees to the tune of Rs. 2,31,184/- for the period from 04/2000 to 03/2013.

2. Facts connected in brief are that the Appellant Establishment is a registered Society who runs the school Maharishi Dayanand Uchhtar Mahavidyalaya , Maharajpur vide its resolution dated 22-1-1998. Adarsh Yuvak Mandal Maharajpur is another Registered Society which runs the Maharishi Dayanand Uchhtar Mahavidyalaya , Maharajpur, imparting education to children of Class-1 to Class-8 only. The new Society which is Adarsh Yuvak Mandal Maharajpur was given the charge of the Maharishi Dayanand Uchhtar Mahavidyalaya , Maharajpurj from July 1996 and is a separate and independent society since then. Initially the institution Maharishi Dayanand Uchhtar Mahavidyalaya , Maharajpur was also being run the Appellant Establishment till June-1996, thereafter it is being run by an another Society Adarsh Yuvak Mandal Maharajpur. It is the case of the Appellant Establishment that after the split of the appellant society into two independent society, one the appellant and the other Adarsh Yuvak Mandal Maharajpur. The Appellant Society has been running only Maharishi Dayanand Uchhtar Mahavidyalaya , Maharajpur which has never employed 20 or more employees on its roll within the



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period of assessment. Hence according to the Appellant Establishment, since there were less than 20 employees on the roll of the appellant establishment within the period of assessment in question in this appeal, it was exempted from operation of the Act. The Respondent Authority wrongly held that the appellant establishment was covered by the Act, even when the number of employees reached below 20 within the period of assessment in question, hence committed error in law in passing the impugned order, which requires to be set aside.

3. In its counter reply, the Respondent has mainly defended the impugned order.

4. I have heard arguments of learned counsel for the appellant Shri Sanjay Verma and learned counsel for the Respondent Shri J.K.Pillai. I have perused the record as well. After perusal of the record in the light of the rival arguments, the following point comes up for determination in the present appeal:-

(1). "Whether the finding of the Respondent Authority that the Appellant Establishment was not exempted from the Act within the period of assessment in question inspite of the fact that there were less than 20 employees on its roll during that period is correct in law or fact or not?"



5. There is on record an order of this Tribunal passed in ATA No.8(23)99, wherein the liability of the appellant establishment to pay the employees provident fund dues of its employees has been confirmed. This order has further been affirmed by Hon'ble the High Court of Madhya Pradesh passed in Writ Petition No.2707/2000 on 24-9-2003, wherein it was pointed out that the Appellant Establishment is under obligation to pay the employees provident fund dues of its employees as has been settled and is final. Reference of Section 1(5) of the Act is necessary here, which is reproduced as follows:-

1(5) An establishment to which this Act applies shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time falls below twenty.]

6. Perusal of this provision makes it amply clear that once an establishment is covered by the Act it shall continue to be governed by this Act, notwithstanding the number of persons employed there in at any point of time falls below 20.



7. In the light of the aforesaid provisions, the impugned finding of the Respondent Authority cannot be held unjustified in law .

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Accordingly the impugned finding is held to be perfectly justified in law and is affirmed.

8. No other point has been pressed.
9. Accordingly, the Appeal sans merit and is liable to be dismissed

ORDER

Appeal stands dismissed with costs.



(P.K.SRIVASTAVA)

PRESIDING OFFICER

JUDGMENT SIGNED , DATED AND PRONOUNCED.



(P.K.SRIVASTAVA)

PRESIDING OFFICER

Date:6-1-2022

