

ORDER SHEET
CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR(MP)

CASE NO. CGIT/LC/EPFA/18-2022

Family Planning Association of India, Jabalpur Vs. APFC & Others

Date of order of proceeding	Order or proceeding with signature of Presiding Officer	Signature of parties or pleaders where necessary
6-4-2022	<p>Taken up for hearing.</p> <p>Shri Aditya Ahiwasi, Learned counsel for the Appellant. Shri J.K.Pillai, Learned counsel for the Respondent.</p> <p>Perused the report of the Registry</p> <p>The present appeal has been filed against two separate orders of the Respondent Authority passed under Section 14-B and 7Q of the Employees Provident Fund And Misc. Provisions Act,1952, herein after referred to the word 'Act'. The impugned order was passed on 24-2-2022 whereas the appeal has been filed on 1-4-2022, hence within time.</p> <p>The learned counsel for respondent has preferred a written objection with reference to maintainability of appeal relating to order Under Section 7Q of the Act.</p> <p>I have also heard, Advocate Shri Aditya Ahiwasi, and Shri J,K,Pillai, Advocate on application for maintainability of appeal under Section 7Q of the Act.</p> <p>As regards, the maintainability of present appeal under Section 7Q of the Act, the main ground of learned counsel for the appellant is that since one and same notice in both the section was issued by the Respondent Authority and proceedings were also jointly conducted and hence merely because two separate orders have been passed , one under Section 14-B of the Act and the other under Section7Q of the Act, the impugned orders will not cease to be composite order</p>	



and hence, the appeal will be maintainable against the order under Section 7Q of the Act also.

Learned Counsel for the appellant has referred to a judgment of Single Bench of Hon'ble High court of Delhi passed in the case of **Gaurav Enterprises Vs. Union of India & Others W.P.(c) No.8485/2021** wherein it has been laid down that when the proceedings arise out of one notice and proceedings are done in a composite manner, hence order Under Section 7Q also be deemed as a composite order, though passed separately and appeal shall be maintainable against such an order.

Just the opposite is the view of **Single Bench of Hon'ble High Court of Madhya Pradesh passed in W.P.No.28798/2019 (M/s Sumedha Vehicles Pvt. Ltd. Vs. Central Govt. Industrial Tribunal and Ors.)** referred to by learned counsel for the Respondent, wherein it has been laid down that in such a case order under Section 7Q will not be composite order. Thus there are two different view of Hon'ble the Single Bench of two Hon'ble High Court but since this Tribunal is under the territorial writ jurisdiction of Hon'ble High Court of Madhya Pradesh, hence the law laid down by Hon'ble High Court of M.P. in this respect will bind the Tribunal.

Accordingly, the order under Section 7Q of the Act is held not appealable before this Tribunal. Appeal so far as it relates to order under Section 7Q of the Act, is not entertained and it shall be only be restricted to order under Section 14B of the Act. The Appellant is at liberty to seek remedy before the appropriate forum with respect to Order under Section 7Q of the Act.

Respondents to counter within 30 days from today with documents after serving a copy thereof to learned counsel for the appellant. Rejoinder if any, within 15 days thereafter.

Learned counsel for the appellant has pressed his I.A. regarding said recovery of amount.

Learned Counsel for the Respondent has preferred written objection.

I have heard both the sides.

During argument on I.A. it comes out that the appellant establishment has already paid the assessed amount under Section



14B/7Q of the Act, assessed up to 2019 vide order dated 11-2-2019 revised vide order dated 20-2-2019 as per Annexure-13 and Annexure-14 to the Memo of Appeal. Thereafter as shown in Annexure 15 to the memo of appeal, the Appellant Establishment was winded up by an order of State Government. Thereafter a writ was preferred by employees working in the Appellant Establishment before Hon'ble High Court of M.P. W.P.No.1168/2020 in which parties were directed to maintain status quo. It is the case of appellant that since then the payment of wages are made by the State Government and the appellant establishment is nowhere concerned with the payment of wages. The order under challenge is order dated 24-2-2022 regarding assessment of damages for the period April-2009 to March-2019 in which according to the Respondent the belated remittance were made. There is an order of the Respondent Authority dated 11-2-2019 Annexure A-13 to the appeal in which the appellant establishment has been held responsible for penalty under Section 14-B of the Act for late remittance of employees provident fund dues from April-2003 to September-2018, the assessed amount has been paid, as is stated by the learned Counsel for the Appellant and it so appears from Annexure-14 to the memo of appeal. It is also established from Annexure -15 that the Appellant Establishment was winded up from April-2019, hence their appears double assessment of damages regarding almost the same period in the two orders i.e. order under Appeal passed on 24-2-2022 and order dated 11-2-2019 passed by the Respondent Authority Annexure A-13 to the memo of Appeal. Learned Counsel for the respondent seeks and is granted time to explain this situation as requested by learned counsel for the appellant, the recovery of amount under Section 14B under Appeal shall remain stayed till the date fixed.

List the case on 13/6/22 for hearing.


PRESIDING OFFICER