

**BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT No.1, DELHI; ROOM  
No.207 ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-  
110002**

**Misc. Application No. 86/2022 filed in Appeal No. 1065(4)2015**

M/s. Prime Services

Appellant

Through:- Sh. S.P Arora & Sh. Rajiv Arora Ld. Counsels for the  
Appellant

Vs.

APFC, Delhi(N)

Respondent

Through:- Sh. Rajesh Kumar Ld. Counsel for the  
Respondent / Applicant in this review application

**ORDER DATED :- 17.11.2022**

**APPLICATION UNDER SECTION 7L(2) OF THE EPF & MP ACT,  
1952 READ WITH 151 OF CPC ON BEHALF OF RESPONDENT FOR  
SEEKING REVIEW OF THE FINAL ORDER DATED 13.01.2022**

1. The present order shall dispose an application filed on behalf of the Respondent / applicant under section 7L(2) of the EPF & MP Act, 1952 seeking review of the final order passed by this Tribunal in the Appeal No. 1065(4)2015 titled as M/s. Prime Services Vs. APFC, Delhi (North).

2. Notice having being served, counsels for both the parties appeared on 18.10.2022. As the copy of the review application was already served upon the opposite counsel (Counsel for the Appellant), the written objections to the Review application was also filed on that day on behalf of the opposite party (the Appellant).

3. Briefly stating, the opposite party of the present application, M/s. Prime Services came before this

Tribunal in appeal against the order dated 20.08.2015 of A.P.F.C.(the present applicant) in an enquiry u/s 14 B of the EPF & MP Act, 1952 (which shall hereinafter be referred for brevity and convenience as the 'Act' only) due to the alleged delayed payments of the PF dues for the period commencing from 04/2006 to 03/2014 imposing damages to the tune of Rs. 22,89,101 and interest u/s 7Q of the 'Act' to the tune of Rs. 16,27,294/-. In the said Appeal no. 1065(4)2015, after completion of respective pleadings of both the parties, arguments were finally heard and concluded on 08.12.2021 and final order was passed on 13.01.2022.

3. The arguments on the application filed u/s 7L(2) of the 'Act' purported to be for review of final order passed by this Tribunal continued on 02.11.2022 also. On that date the Ld. Counsel for the Applicant/ Respondent sought more time to submit case-laws in support of his contention that this Tribunal has power to review its final order under Section 7L(2) of the 'Act'. Accordingly, the matter was adjourned for 10.11.2022 for rest of the arguments.

4. The Ld. Counsel for the Applicant/ Respondent submitted written submissions in addition to his oral submission as to the contentions made in the Application u/s 7L(2) of the Act. The Ld. Counsel for the opposite party(The Appellant) during the course of arguments relied upon the judgment dated 11.03.2015 passed by Hon'ble Delhi High Court in *W.P.(C ) 5678/2013 Food Corporation of India, Dirba Sangrur(PB) Vs. Regional Provident Fund Commissioner, Bathinda(PB)*. Stress put upon the Para 9 of the judgement which states about the contentions raised by the petitioner as to the over exercise of the jurisdiction vested in it by the CGIT, whereupon the

writ petition succeeded. Para 9 is reproduced hereunder as to the which is cited hereunder:-

*9. Learned counsel for the petitioner contended that the impugned order dated 21.12.2012 is bad in law and is beyond the jurisdiction and scope of Section 7-L(2) of the EPF Act. Section 7-L of the EPF Act gives limited power of review by way of amendment and the order so passed by exercising the power under the said section cannot be inconsistent to the main order. The power of review as provided under the said Section can only be exercised to rectify the mistake or error which is apparent on the face of record. A review petition cannot be permitted to operate as an appeal. The jurisdiction to set aside an erroneous judgment lies with the next higher court or the appellate court when the matter is brought before it in a proper appeal.*

5. Perused the said Miscellaneous Application u/s 7L(2) of the 'Act' moved by the Respondent in decided Appeal No. 1065(4)2015 vide judgement dated 13.01.2022 seeking it's review, the materials on record and heard the argument of the parties.

6. Before discussing the merits of the application moved by the Applicant (Respondent) under Section 7L (2) of the 'Act', the question mooted before the court is whether review of the final order passed by the Tribunal exercising it's jurisdiction under Section 7 I of the 'Act' as Appellate Court, may exercise power of 'review' of its own order passed in the appeal deciding the same finally?

7. In this regard, it would be pertinent and relevant to have a look upon the relevant provisions of the 'Act.'

8. The power of 'Review' is specifically and distinctly conferred under section 7B of the Act to the 'Authorised Officer' as defined under section 2 (aa) of the Act, 1952. The provisions of Section 2 (aa) are as under:-

*2 [(aa) "authorised officer" means the Central Provident Fund Commissioner, Additional Central Provident Fund Commissioner, Deputy Provident Fund Commissioner, Regional Provident Fund Commissioner or such other officer as may be authorised by the Central Government, by notification in the Official Gazette;]*

9. This would also be pertinent to state that the power of 'Review' is exercisable by the 'Authorised Officer' with regard to order passed by it under subsection (1) of Section 7A. For an easy reference the relevant subsection 1 of Section 7A of the EPF & MP Act, 1952 are cited hereunder:-

*7A. Determination of moneys due from employers.— [(1) The Central Provident Fund Commissioner, any Additional Central Provident Fund Commissioner, any Deputy Provident Fund Commissioner, any Regional Provident Fund Commissioner, or any Assistant Provident Fund Commissioner may, by order,— (a) in a case where a dispute arises regarding the applicability of this Act to an establishment, decide such dispute; and*

*(b) determine the amount due from any employer under any provision of this Act, the Scheme or the [Pension] Scheme or the Insurance Scheme, as the case may be, and for any of the aforesaid purposes may conduct such inquiry as he may deem necessary];*

10. The Act makes the order passed under Section 7A(1) appealable before the EPF Appellate Authority

(Presently the CGIT constituted under sub-section 1 of Section 7A of the Industrial Disputes Act, 1947) preferable under Section 7I of the 'Act' which is quoted hereunder for the purpose of easy reference:-

*7-I. Appeals to Tribunal.—(1) Any person aggrieved by a notification issued by the Central Government, or an order passed by the Central Government or any authority, under the proviso to sub-section (3), or sub-section (4), of section 1, or section 3, or sub-section (1) of section 7A, or section 7B [except an order rejecting an application for review referred to in sub-section (5) thereof], or section 7C, or section 14B, may prefer an appeal to a Tribunal against such notification or order.*

*(2) Every appeal under sub-section (1) shall be filed in such form and manner, within such time and be accompanied by such fees, as may be prescribed.*

11. It would further be relevant to look at the provision regarding power of review as legislated in Section 7B of the 'Act', which runs as below:-

*7B. Review of orders passed under section 7A.—(1) Any person aggrieved by an order made under sub-section (1) of section 7A, but from which no appeal has been preferred under this Act, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the order was made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of such order may apply for a review of that order to the officer who passed the order:*

*Provided that such officer may also on his own motion review his order if he is satisfied that it is necessary so to do on any such ground.*

*(2) Every application for review under subsection (1) shall be filed in such form and manner and within such time as may be specified in the Scheme.*

*(3) Where it appears to the officer receiving an application for review that there is no sufficient ground for a review, he shall reject the application.*

*(4) Where the officer is of opinion that the application for review should be granted, he shall grant the same:*

*Provided that,—*

*(a) no such application shall be granted without previous notice to all the parties before him to enable them to appear and be heard in support of the order in respect of which a review is applied for, and*

*(b) no such application shall be granted on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge or could not be produced by him when the order was made, without proof of such allegation.*

*(5) No appeal shall lie against the order of the officer rejecting an application for review, but an appeal under this Act shall lie against an order passed under review as if the order passed under review were the original order passed by him under section 7A.*

12. A cumulative study of all the three sections of the 'Act' cited herein above, amply make it clear that the power of Review under Section 7B is exercisable by the Authorised Officers as defined under Section 2(aa) of

the Act with regard to the order passed by them under Section 7A(1) and that too only till the appeal under Section 7I is not filed before the Appellate Tribunal-‘The CGIT’.

13. An appeal before this Tribunal was preferred on 14.09.2015 against the order of the Authorised Officer passed under Section 14B dated 20.08.2015. After hearing the parties to the Appeal on merit, the judgement / order was passed by the Tribunal on 13.01.2022, deciding the same finally.

14. The power of Industrial Tribunal to pass orders is provisioned under Section 7L(1) of the ‘Act’ which is as under:-

*7L. Orders of Tribunal.—(1) A Tribunal may after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order appealed against or may refer the case back to the authority which passed such order with such directions as the Tribunal may think fit, for a fresh adjudication or order, as the case may be, after taking additional evidence, if necessary.*

15. The Present application is moved by the Respondent of the aforesaid decided Appeal “The Regional P.F. Commissioner, Delhi North” purporting to be for ‘review’ of the said order, invoking power under section 7L(2) of the Act. The relevant portion of Section 7L(2) is cited hereunder:-

*7L (2) A Tribunal may, at any time within five years from the date of its order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (1) and shall make such amendment in the order if the*

*mistake is brought to its notice by the parties to the appeal: Provided that an amendment which has the effect of enhancing the amount due from, or otherwise increasing the liability of, the employer shall not be made under this sub-section, unless the Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.*

16. The bare reading of the subsection (2) of Section 7L itself make it amply clear and restricts the Appellate Tribunal from exercising the power of review of its own order and confines its power u/s 7L(2), to the extent of correction and rectification of mistakes “appearing on the face of the record” only.

17. The present application does not indicate any clerical, arithmetical or numerical error in the final order or any other defect like ‘error and mistake’ in the wordings of the order, which may attract the exercise of power conferred on the Tribunal in the Section 7L(2), so as to motivate it for making necessary correction or rectification, if any required in the order. The alleged errors indicated and stated in the application u/s 7 L(2) relates to the merit of the order and alleged erroneous view of law taken by the Tribunal. Merit and wrong view of law may be challenged under Law before the Superior Court or Appellate Court as provided by the ‘Act’. The Tribunal is not competent to review it’s final order exercising power as provisioned under Section 7L(2).

18. None of the afore-stated provisions of the ‘Act’ should be read and construed solitarily and separately from each other otherwise, the benevolent nature of the ‘Act’ shall stand defeated. They all should be and must be taken together as such they built together an adjudicatory mechanism through hierarchy of courts,



where order passed by 'authorized officer' as defined in Section 2(aa) and specified under Section 7A (1) of the 'Act' can be reviewed in certain circumstances given under Section 7 B by those authorities who passed such order within prescribed period of limitation which is self contained in the 'Act', till the appeal is not preferred u/s 7I of the 'Act' before the Industrial Tribunal. Section 7L(1) of the 'Act' states the power of the Tribunal, to pass such order as it think fit in the facts and circumstances. Finality to the order is given under sub-section (4) of the Section 7L which reads as under:-

*7 L(4) Any order made by a Tribunal finally disposing of an appeal shall not be questioned in any court of law.*

19. It is made explicit in the provisions that neither the Tribunal comes within the definition of 'authorised officer' u/s 2(aa) and specification of officers under Section 7A(1) of the 'Act' nor this order passed by the Tribunal comes within the ambit of Section 7A(1) of the Act. As such power under Section 7B for review by the Tribunal of it's own order passed in an appeal u/s 7 I is not exercisable by it under the 'Act.'

20. In *R.K. Gupta Vs. National Building Corporation (2012)135 FLR 393 (Delhi High Court)*, it is held that exercise of power to 'Review' by the Tribunal is not permissible. The only exercise of power warranted is to limited scope of correction u/s 7L(2).

21. In *State of West Bengal Vs. Kamal Sen Gupta (2008) 8 SCC 612*, it is held, 'Mistake' or 'Error' apparent on the face of record means such mistake or error which is prima-facie visible and does not require any detail examination. Erroneous view of law is not a ground of review.

22. On the discussion made hereinabove, the Tribunal is of the view that application u/s 7L(2) moved by the Respondent of decided Appeal (u/s 7 I of the Act) No. 1065(4)2015, purporting to be an application for 'Review' of final order in the said appeal deciding it finally on 13.01.2022 is not maintainable under the provisions of the 'Act' and therefore is liable to be rejected.

#### ORDER

The Miscellaneous Application No. 86/2022 filed under Section 7 L(2) dated 21.04.2022 moved by the Respondent APFC of the decided Appeal No. 1465(4)2015 is, hereby, rejected.

Justice Vikas Kunvar Srivastav (Retd.)  
Presiding Officer,  
CGIT-cum-Labour Court No.1, Delhi.

17.11.2022  
rds