

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

EPF Appeal No.- 23/2022

Present – P.K. Srivastava

H.J.S. (Retd.)

1. DN Jain Higher Secondary School,
Under aegis of D.N. Jain Housing Board Society,
Through its Secretary,
Gol Bazar, Wright Town,
Jabalpur (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.)

Respondents

Shri Uttam Maheswari : Learned Counsel for Appellant.

Shri Rahul Chourasia : Learned Counsel for Respondents.

JUDGMENT

(Passed on 6th day of Febuary, 2026)

The present appeal is directed against the order dated 06.04.2022, passed by Respondent Authority (Respondent No. 1/2) under section 14-B & 7-Q of *The Employees Provident Fund & Miscellaneous Provisions Act, 1952*, hereinafter referred to as the 'Act**', by which the Respondent Authority has recorded a finding that the Appellant Establishment has defaulted the deposit of EPFO dues of its employees within the period**

from October, 2000 to October, 2018 and has assessed the amount of penal damages u/s 14-B of the Act at Rs. 5,17,065/-, and interest under section 7-Q of the Act at Rs. 10,08,452/-, has directed to pay this amount as penal damages as well the interest.

The skeletal facts connected to present appeal are mainly that, Appellant Establishment is a grant-in-aid constituted under the provisions of the M.P. Society Registrickaran Adhiniyam, 1973 and functions under the control and supervision of Respondent Authority, receives salary and Provident Fund amounts from the State Government, which were kept in a joint nationalized bank account, under the joint control of the employees and Respondent Authority.

Despite the pending challenge to the applicability of the Act of 1952 before the Hon'ble High Court of M.P. in W.A. 99 of 2016, the Respondent Authority issued a show-cause notice dated 01.07.2019 proposing penal interest and damages by treating the transfer of Provident Fund accumulations as delayed also representations dated 18.07.2019 and 22.03.201 to Respondent Authority in respect to penal damages/interest has been issued, even though the amounts were received from Respondent Authority, without causing any loss to employees or financial liability to the Appellant Establishment. The Respondent Authority thereafter without considering the pendency of the aforementioned litigation or the submissions advanced by the Appellant Establishment, passed an impugned composite order U/s 14-B and 7-Q of the Act rejecting the contention of the Appellant Establishment, hence this Appeal.

Grounds of Appeal, taken in the memo of appeal are mainly that the Respondent Authority failed to consider settled legal principles and relevant material facts ignoring the law laid down by the Hon'ble High Court of Madhya Pradesh and the Hon'ble Supreme Court that grant-in-aid educational institutions cannot be treated at par with commercial establishments and that maximum damages cannot be imposed mechanically. The order wrongly levies interest and damages on amounts that included interest earned by employees, despite there being no provision under Sections 14B or 7Q of the EPF Act permitting interest on interest or damages on interest, and without examining this aspect either in the show-cause notice or the impugned order. The Respondent Authority further failed to follow due process, consider

accounting records, or exercise statutory discretion, and mechanically adopted a methodology already under challenge before this Hon'ble Tribunal. The impugned order also disregards the principles laid down in *Organo Chemical Industries* and *Hindustan Times Ltd.*, as there is no finding of loss to beneficiaries, no habitual or willful default, and the contributions were regularly remitted with only marginal delay. Consequently, the Respondent Authority failed to act judiciously in safeguarding the interests of both employees and employers, rendering the impugned order unsustainable and liable to be set aside.

The Respondent Authority failed to appreciate the settled legal position laid down by various Hon'ble High Courts that damages under Section 14B of the EPF Act must have a direct co-relation with the actual loss suffered by the employees, which has neither been computed nor even alleged in the present case therefore is unsustainable. The Respondent Authority further failed to consider mandatory factors such as the number, nature, frequency, and period of delay, the amounts involved, and whether the delay was occasioned by financial or bona fide circumstances, as required by the law laid down by the Hon'ble High Courts of Kerala and Delhi, and in absence of such determinations, imposition of maximum or 100% damages is illegal. The impugned orders also ignore the ratio of the Hon'ble High Court of Madras in *Snap Tap Machine Accessories (India) (P) Ltd.*, holding that damages without computation of loss are arbitrary. Further, the Respondent Authority failed to examine mitigating circumstances as mandated by the Hon'ble Karnataka High Court in *M/s Jamiyyatul Falah*, which clarifies that the scale under Para 32A of the EPF Scheme prescribes only the maximum damages. Lastly, in view of the law laid down by the Hon'ble Chhattisgarh High Court in *Indian Oil Corporation*, in absence of any *actus reus* or *mens rea* and considering that the Appellant Establishment promptly remitted the amounts upon determination, the impugned orders deserve to be quashed.

In its counter to appeal, the Respondent Authority has defended the impugned order on the ground that the applicability of the Act could be decided in the light of the provisions of the Act. Letter of coverage is a simple reminder. The liability of the Appellant Establishment to pay the employees provident fund dues of its employees has been adjudicated in separate proceedings under Section 7A of the Act and is final between

the parties. Payment of damages and interest are consequential to the main order, thus according to the Respondent Authority, there is no error of law and fact in the impugned order.

I have heard argument of Mr. Uttam Maheshwari, Learned Counsel for the Appellant Establishment, Mr. Rahul Chourasia present for Learned Counsel for the Respondent Authority. I have gone through the written submission filed by the Appellant Establishment and have gone through the record as well.

On perusal of the record in light of rival arguments following point comes up for determination.

"Whether the finding of the Respondent Authority that the Appellant Establishment is liable to pay damages under Section 14B and interest under Section 7Q of the Act for delayed payments of employees provident fund contributions of its employees between the period October, 2000 to October, 2018 and the assessment can be faulted in law or fact or not?"

Both the learned counsel have attacked and defended the impugned finding in their arguments. The main contention of learned counsel for Respondent is that imposition of interest under Section 7Q of the Act is only consequential when the liability to pay employees provident fund dues by the Appellant Establishment for the period in question has been settled and has become final. The Appellant Establishment cannot escape from paying interest on damages under Section 7Q of the Act. This is also because the Respondent Authority has to pay interest to the contributions on their deposits. The arguments of learned counsel for Appellant Establishment on this point are mainly that the Appellant Establishment cannot be held liable to pay interest for pre discovery period.

Section 1(3) of the Act requires to be reproduced here, which is as follows:-

3 Subject to the provisions contained in section 16, it applies-

(a) to every establishment which is a factory engaged in any industry specified in Schedule I and in which fifty or more persons are employed, and

(b) to any other establishment employing 'Twenty' or more persons or class of such establishments which the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that the Central Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment employing such number of persons less than 8 twenty as may be specified in the notification.

A simple reading of this provision makes it clear that an establishment is under obligation to pay employees provident fund dues of its employees and is covered under the Scheme automatically as and when conditions mentioned as above are satisfied. Thus the arguments of learned counsel for Respondent that the Appellant Establishment is covered under the Act for provident fund deposits since October, 2000 when the conditions under Section 3a and 3b as mentioned above are satisfied and letter of coverage does not make any difference in this liability, is liable to be accepted accordingly. This is also to be mentioned here that liability to pay interest under Section 7Q is a consequential one. In the case in hand, when the liability to pay employees provident fund dues for the period in question has become final between the parties, the appellant establishment is under obligation to pay interest for late deposits under Section 7Q of the Act, hence the finding of the Respondent Authority with regard to liability under Section 7Q of the Act and assessment cannot be faulted in law or fact and is affirmed accordingly.

As regards the liability of the Appellant Establishment to pay damages under Section 14B of the Act for the late deposits and assessment, the learned counsel for the Appellant has referred to decision of ***Hon'ble the High Court of M.P. in Naveen Vidya Bhawan Vs. Union of India (2015)(111) CLR 484, Manu/M13/0814/2015***, the facts of the case referred are same with the case in hand. In the referred case Hon'ble High Court of M.P. has reduced the damages under Section 14B of the Act to 25% of the assessed amount. Keeping in view the facts and

circumstances which are similar to the case in hand, para 7 & 9 of this judgment are being reproduced as follows:-

7. Section 16(1) (b) as amended can apply only if there is a finding that the institution is covered by some scheme. In the instant case as pointed out, the petitioners are required to abide by the provisions of Rule 10 of the M.P. Ashaskiya Shikshan Sanstha (Institutional Fund) Rules, 1983 and to make deduction towards the contributory fund and under clause (6) of Rule 10. Old procedure for deposit of the provident fund given in sub-rules (1) to (6) of Rule 10. The applicability of the Employees' Fund & Misc. Provisions Act, 1952 has been specifically stated and the deposits have to be made to the accounts maintained as per scheme of the Act. Thus, it is amply clear that the provisions of the Central Provinces & Serer Manual Appendix XVIII do not apply to the present case.

Even if the petitioners are following the said arrangement, the said arrangement cannot continue as the petitioners are not covered by Section 16 (1) (b) of the Act, also in view of State Act of 1978 & Rules.

9. In the instant case, the petitioners submit that they have been depositing the provident fund as per Appendix XVIII of the C.P. & Berar Education Manual. The question is whether they can be allowed to continue with the said arrangement and the view which we have taken the petitioners cannot be allowed to retain the amount already collected and whatever amount has been collected will have to be deposited in the Reserve Bank or the State Bank as per the provisions of Employees Provident Fund & Misc. Provisions Act, 1952 & Scheme.

In the light of the case referred above, holding the findings of the Respondent Authority regarding the liability of the Appellant. Establishment to pay damages under Section 14B of the Act for delayed payments is justified in law and fact. The assessment is reduced to 25% of the assessed amount under Section 14-B of the Act in the impugned order.

Point for determination stands answered accordingly.

No other point was pressed.

In light of above discussion and finding, the Appeal succeeds partly.

ORDER

Appeal succeeds partly. The liability and the assessment of amount under Section 7Q of the Act in the impugned order is confirmed. The liability and assessment of amount under Section 14B of the Act in the impugned order is reduced to 25%.

No order as to cost.

Date:- 06-02-2026

Judgment Signed, dated and pronounced.

Date:- 06-02-2026

**P.K. SRIVASTAVA
(PRESIDING OFFICER)**

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(PRESIDING OFFICER)**

