

(2011) 02 P&H CK 0416
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 2384 of 2010 (O and M)

Assistant Provident Fund Commissioner	APPELLANT
Vs	
Employees' Provident Fund Appellate Tribunal and Another	RESPONDENT

Date of Decision : 02-02-2011

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 7A, 7O

Citation : (2011) LLR 235

Hon'ble Judges : Mahesh Grover, J

Bench : Single Bench

Advocate : Rajesh Hooda, for the Appellant; Narender Hooda, for the Respondent

Judgement

Mahesh Grover, J.—The Petitioner impugns the order passed by the Appellate Tribunal by which the appeal of the Respondent has been entertained without compliance of Section 7-O of the Employees Provident Fund and Miscellaneous Provisions Act, 1952. While making a reference to the impugned order learned Counsel for the Petitioner has stated that no reasons have been given for dispensing with the requirements of the provisions of Section 7-O. After hearing learned Counsel for the Petitioner, I am of the considered opinion that the contentions raised by the learned Counsel for the Petitioner merits acceptance. Section 7-O is extracted hereunder:

7-O Deposit of amount due, on filing appeal--No appeal by the employer shall be entertained by a Tribunal unless he has deposited with it seventy-five per cent of the amount due from him as determined by an officer referred to in CWP No. 2384 of 2010(O&M) 2

Section 7A. Provided that the Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this Section.

2. It is evident that no appeal can be entertained unless there is deposit of 75% of the amount due from the Appellant or as determined by an officer referred to

in Section 7A. The proviso to the aforesaid section enables the Tribunal to waive or reduce the amount to be deposited u/s 7-O but if the impugned order is to be seen no justification has been given for dispensing with the provisions of Section 7-O. The order being non-speaking on this aspect of the matter, I am of the considered opinion that the Tribunal has without affording justification by not giving any reasoning has dispensed with the provisions of Section 7-O which action is unsustainable in the eyes of law. It is expected of each quasi judicial authority to act fairly and the fairness in exercise of any power has to be based on reasons which are to be reflected in the order.

3. For the aforesaid reasons, the impugned order is set aside and the matter is remanded back to the Appellate Tribunal for re-consideration of the matter regarding the grant of benefit to the Respondents u/s 7-O of the Act. The issue regarding the same as also the grant of stay shall be considered by the Respondents afresh.