IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 3583 of 2018 (O&M)
Reserved on: 14.7.2026
Date of Decision: 04.08.2026

Central Board of Trustees and another ......Petitioners

Versus

Presiding Officer, Employees Provident Fund Appellate Tribunal-cum-Central Government Industrial Tribunal-cum-Labour Court-1 and others .....Respondents

1	The date when the judgment is reserved	14.7.2026
2	The date when the judgment is pronounced	04.8.2026
3	The date when the judgment is uploaded on the website	04.08.2026
4	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof.	N.A.

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Argued by: Mr. Sanjay Tangri, Advocate
for the petitioners.

Mr. Anurag Chopra, Advocate and
Ms. Darika Sikka, Advocate
for respondent No. 2.

Mr. K.K.Gupta, Advocate
for respondent No. 3-FCI.

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KIRTI SINGH, J.

1. The present petition filed under Articles 226/227 of the Constitution of India assails the order dated 23.10.2017 (Annexure P-5) passed by respondent No. 1, whereby appeal filed by respondent No. 2 against the order datee 25.2.2016 (Annexure P-2) passed by the assessing authority under Section 7-A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short '*the Act of 1952*'), has been

allowed and the order dated 25.2.2016 was set aside.

2. The relevant facts for disposal of the present petition are that respondent No. 4-Mehar Chand filed two complaints dated 26.6.2015 against respondent No. 2, a labourer contractor engaged in handling and transportation work for various food-grain agencies including FCI, alleging therein that he had obtained two separate EPF code numbers and had suppressed actual wage bills to evade PF liability. It was alleged that while respondent No. 2 had shown labour expenses of Rs. 98,33,136/- in the Income Tax Returns for the year 2013-14, but only about Rs. 11.00 lacs had been disclosed before the EPF authorities for the purpose of PF contribution. On the basis of the above complaints, a preliminary investigation was conducted, and on the basis of report dated 16.7.2015, inquiry under Section 7-A of the Act of 1952 was commenced. Upon conclusion of the inquiry, the authority concerned vide order dated 25.02.2016 (Annexure P-2), held that respondent No. 2 had committed fraud and suppressed actual wage liability during the subsistence of the contract with the FCI, and consequently determined that an amount of ₹26,03,995 was payable by respondent No. 2 for the period from April 2012 to May 2015. The review application preferred by respondent No. 2 under Section 7-B of the Act of 1952, was dismissed vide order dated 08.3.2016 (Annexure P-3). Consequently, against the order dated 25.2.2016, respondent No. 2 preferred an appeal before the learned Appellate Tribunal, which was allowed vide impugned order dated 23.10.2017 (Annexure P-5) and the assessment order dated 25.2.2016 was set aside. Aggrieved thereby the EPFO has filed the present writ petition.

<u>Submissions made by learned counsel for the petitioner</u>

3. The learned counsel for the petitioner has argued that the Appellate Tribunal committed a manifest error in setting aside the

assessment order, despite overwhelming material demonstrating suppression of wages by respondent No. 2. It is submitted that in the Income Tax Return (Trading, profit and loss account) for the year 2013-14, respondent No. 2 had declared labour expenses of Rs. 98,33,136/-, whereas only about Rs. 11.00 lacs were reflected before the Provident Fund Authorities, thereby substantially reducing the statutory contribution payable under the Act. It is further submitted that during the contract period between 13.12.2012 to 12.12.2014, respondent No. 2 had undertaken handling and unloading operations involving over Rs. 85.00 lacs bags, and had claimed to have paid wages amounting to Rs. 1,61,39,610/-. However, the PF contributions were deposited only in respect of workers reflected in the attested wage register showing payment of Rs. 19,88,969/-. According to the petitioner, respondent No. 2 had fabricated another wage register showing payment of Rs. 1,41,50,641/- in favour of the employees not covered under the provisions of Section 2(f) of the Act of 1952, solely to evade PF liability. Learned counsel argues that the principal employer, namely FCI, neither verified nor attested the alleged second register, nor acknowledged the negagement of such workers. In fact, despite being directed during the inquiry to furnish an affidavit establishing that the workers shown in both registers had actually worked at the FCI, respondent No. 2 failed to do so. It is, therefore, contended that the learned Tribunal has ignored the material evidence and passed a legally unsustainable order, warranting interference under Articles 226 and 227 of the Constitution of India.

<u>Submissions on behalf of learned counsel for respondent No. 2</u>

4. *Per contra*, learned counsel for respondent No. 2 supports the impugned order and submits that the proceedings under Section 7A of the Act of 1952 were founded on mere assumptions without any evidence

identifying undisclosed employees or establishing suppression of wages. It is contended that respondent No. 2 had maintained all statutory records prescribed under the Contract Labour (Regulation and Abolition) Act and the Rules framed thereunder, and provident fund contributions were duly deposited in respect of all employees covered under the Act. The statutory registers were verified by the principal employer before release of the contractual payments, and no deficiency was ever pointed out during the execution of the contract. Learned counsel further submits that the Tribunal, after examining the entire record, rightly held that no provident fund contribution was payable in respect of employees who were not covered under the Act and that the assessment under Section 7A had been made without proper verification of the identity or eligibility of the alleged employees. It is, therefore, submitted that the impugned order is based upon a proper appreciation of the evidence and calls for no interference in exercise of the writ jurisdiction of this Court.

Submissions on behalf of respondent No. 3

5. Learned counsel appearing for the FCI submits that the Appellate Tribunal proceeded on an erroneous factual premise in observing that the register relating to the alleged excluded employees had not been verified by the FCI. It is submitted that an affidavit dated 20.08.2015 was filed before the authority categorically stating that respondent No. 2 had engaged only those workers whose names were reflected in the muster rolls duly verified and attested by the Depot Manager, FCI, Raikot. According to the FCI, no separate register of additional workers was ever maintained or verified during the execution of the contract. It is further submitted that provident fund contributions in respect of the workers reflected in the

attested registers had been deposited before the contractor's bills were released. Learned counsel, however, clarifies that the deployment and engagement of labour remained the responsibility of the contractor and was not under the control of the FCI.

Analysis & conclusion

6. Heard the learned counsel for the parties and perused the judicial record with their able assistance.

7. The controversy in the present writ petition arises out of proceedings initiated under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, whereby the Assistant Provident Fund Commissioner assessed provident fund dues against respondent No.2 on the premise that it had suppressed wages by maintaining two separate wage registers. According to the department, while wages amounting to Rs.19,88,969/- were reflected in the register pertaining to employees covered under the Act, another register disclosed payment of Rs.1,41,50,641/- to certain so called "excluded employees", which, according to the petitioner, had been maintained only to evade statutory provident fund liability.

8. The Employees' Provident Fund Appellate Tribunal, upon re-appreciation of the entire evidence, did not find the aforesaid conclusion sustainable. The Tribunal recorded a categorical finding that wages were disbursed in the presence of representatives of the principal employer, namely the Food Corporation of India (FCI). It specifically noticed the testimony of the Depot Manager, FCI, who deposed that wages had been correctly disbursed and that no complaint regarding non payment or under payment of wages had ever been received from any labourer. The Tribunal further observed that even if a particular register maintained by the

contractor had not been verified or attested by the FCI, such omission, by itself, could not constitute a valid basis for fastening provident fund liability upon the contractor in the absence of cogent evidence establishing suppression of employees or wages.

9. The principal challenge raised by the petitioner is that the Tribunal failed to appreciate the substantial discrepancy between the wage figures reflected in the income-tax records and those disclosed for provident fund purposes. According to the petitioner, the said discrepancy, read together with the maintenance of two wage registers, clearly established concealment of employees and justified the determination made under Section 7A of the Act.

10. This Court is unable to accept the aforesaid contention. A determination under Section 7A is undoubtedly quasi judicial in nature and carries serious civil consequences. Consequently, the authority is required to determine liability on the basis of legally admissible evidence and not on assumptions or conjectures. The burden squarely lies upon the department to establish, by cogent material, the existence of employees in respect of whom provident fund contributions were legally payable and had remained unpaid.

11. In the present case, apart from drawing an inference from the disparity between the wage figures reflected in the income-tax records and those disclosed for provident fund purposes, the department has not produced any independent evidence identifying the alleged employees, the period during which they worked, the wages actually paid to them, or establishing that they answered the description of "employee" under Section 2(f) of the Act. In the absence of such facts, the assessment under Section 7A rests substantially upon presumption rather than proof.

12. A perusal of record further reveals that the Assistant Provident Fund Commissioner himself, vide communication dated 27.05.2015 addressed to the Area Manager, FCI, acknowledged that provident fund dues for the relevant inspection period had been deposited by the employer. This circumstance has also been noticed by the Tribunal while evaluating the correctness of the assessment.

13. No doubt, Learned counsel appearing on behalf of the FCI has submitted that the Tribunal proceeded on an erroneous factual premise in observing that the register relating to the alleged excluded employees had not been verified by the FCI and an affidavit dated 20.08.2015 had categorically stated that respondent No.2 engaged only those workers whose names were reflected in the muster rolls duly verified and attested by the Depot Manager, FCI, Raikot, and that no separate register of additional workers was ever maintained or verified during the execution of the contract.

14. Even if the aforesaid submission advanced on behalf of the FCI is accepted, the same does not materially advance the petitioner's case. At best, it explains the manner in which the contractual records were maintained. It does not absolve the department of its statutory obligation, in proceedings under Section 7A of the Act of 1952, to establish through reliable and independent evidence that there existed identifiable employees covered under the Act in respect of whom provident fund contributions had remained unpaid. Such burden cannot be discharged merely by pointing to accounting discrepancies or by questioning the maintenance of registers.

15. The Tribunal, upon appreciation of both oral and documentary evidence, has returned a finding that the department failed to discharge the aforesaid burden. This Court finds no perversity, patent illegality or

jurisdictional error in the said finding warranting interference in exercise of writ jurisdiction.

16. It is well settled that while exercising jurisdiction under Articles 226 and 227 of the Constitution of India, this Court does not sit in appeal over findings of fact recorded by a statutory Tribunal. Interference is warranted only where the impugned order suffers from patent illegality, perversity, jurisdictional error or violation of the principles of natural justice. The petitioner has been unable to demonstrate the existence of any such infirmity in the impugned order.

17. Accordingly, this Court finds no ground to interfere with the well reasoned order dated 23.10.2017 passed by the Employees' Provident Fund Appellate Tribunal.

18. Consequently, the present writ petition is dismissed. The order dated 23.10.2017 (Annexure P-5) passed by the Employees' Provident Fund Appellate Tribunal is affirmed.

19. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

August 4th, 2026
Gurpreet Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No