
(2013) 12 CAL CK 0071
In the Calcutta High Court
Case No : W.P. 34052 (W)/2013

Employees" Provident Fund Organisation and Another	APPELLANT
Vs	
The Employees" Provident Fund Appellate Tribunal and Others	RESPONDENT

Date of Decision : 11-12-2013

Acts Referred:

Citation : (2014) LLR 255

Hon'ble Judges : Sanjib Banerjee, J

Bench : Single Bench

Judgement

Sanjib Banerjee, J.—The petition has been filed by the Employees" Provident Fund Organisation against an order passed by the Employees" Provident Fund Appellate Tribunal. A question of maintainability has been raised by the respondent Nos. 2 and 3. Such respondents claim that the present petition should not be entertained at the behest of the EPFO since the EPFO cannot be aggrieved by the order impugned or prejudiced thereby. The order impugned, dated October 15, 2012, finds that the provisions of the Employees" Provident Fund and Miscellaneous Provisions Act, 1952 were not applicable to the respondent establishment as the employees" strength had not reached 20. It is the very jurisdiction of the provident fund authorities that has been annulled by the order impugned.

2. The petitioners rely on judgments reported at L. Chandra Kumar Vs. Union of India and others, and unreported orders of the Single Bench and the Division Bench of the Patna High Court in Civil Writ Jurisdiction case No. 22296 of 2012 (Regional Provident Fund Commissioner v. M/s. Kalyanpur Cements Limited) to assert that the provident fund authorities have the authority to challenge an order as the one impugned in the present proceedings.

3. Nothing in the judgments of the Supreme Court relied upon by the petitioners speaks of the right of the provident fund authorities to challenge the order of an Appellate Tribunal when the employees affected by the order have not

complained against the same. In two of the Supreme Court judgments, it was observed that even a trustee may canvass a right by way of a petition under Article 226 of the Constitution. It does not appear that, in the circumstances herein, the provident fund authorities can be regarded as trustees of the employees, particularly in the context of the Appellate Tribunal having found that the provisions of the 1952 Act were not attracted in the case of the respondent establishment.

4. The Patna High Court orders pertained to a direction by the Appellate Tribunal to pay the admitted dues in installments. It was such order that was challenged. It cannot be immediately appreciated how the Patna case can be put on the same footing as the present one when the challenge in the present case is as to the authority of the Provident Fund Organisation on the ground that the provisions of the Act did not apply to the respondent establishment. In the light of the order that has been passed by the Appellate Tribunal, the provident fund authorities cannot be said to be persons aggrieved or prejudiced thereby to have a right to canvass a challenge by way of the present proceedings. W.P. 34052 (W) of 2013 is not entertained. However, the merits of the order impugned are not gone into and the rights of the employees of the respondent establishment in respect of the order impugned are left undisturbed.

There will be no order as to costs.

Urgent certified website copies of this order. If applied for, be made available to the parties upon compliance of the requisite formalities.