
(2011) 02 MP CK 0022

In the Madhya Pradesh High Court

Case No : Writ Petition No. 1533 of 2011

Fouzdar Farm Equipments

APPELLANT

Vs

Regional Provident Fund Commissioner and Another

RESPONDENT

Date of Decision : 11-02-2011

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 7A, 7I, 8F

Citation : (2011) 4 LLJ 182 : (2011) LLR 373

Hon'ble Judges : Sanjay Yadav, J;Ajit Singh, J

Bench : Division Bench

Judgement

1. With consent of learned Counsel for the parties, matter is heard finally.
2. This petition under Article 226/227 of the Constitution of India is directed against orders dated 04-12-2006 and 26-11-2010 passed by the Regional Provident Commissioner, Respondent No. 1 and Employees Provident Fund Appellate Tribunal respectively.
3. Order passed on 4-12-2006 is u/s 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the Act of 1952"); whereby, the objection preferred by the Petitioner against being covered under the Act of 1952 has been rejected on the ground of delay. Be it noted the Commissioner was to entertain the objection as per direction by Tribunal in ATA/294(8)/2000, whereby the Petitioner was set at liberty to file objection within 45 days. Apparently, the Commissioner was to decide the objection on merit.
4. The Tribunal also in appeal u/s 7-I of the Act of 1952 instead of addressing on merit affirmed the order dated 4-12-2006.
5. In the backdrop of these facts we find sufficient force in the submissions of the learned Counsel for the petitioner that it is deprived of proper opportunity of

bearing u/s 7A of the Act of 1952.

6. Therefore, without entering into the merit as to whether or not the Petitioner could be brought under the umbrella of the Act of 1952. We intend to and hereby quash the impugned orders dated 4-12-2006 and 26-11-2010. Consequently, the proceedings u/s 8F of the Act of 1952 are also quashed.

7. The matter is remitted to the Regional Provident Fund Commissioner, Respondent No. 1, for a fresh decision u/s 7A of the Act of 1952 after affording an opportunity of hearing and in accordance with law.

8. The petition is finally disposed of in above terms. No costs.