
(2000) 03 MP CK 0058

In the Madhya Pradesh High Court

Case No : Writ Petition No. 994 of 2000

Narayandas and Sons

APPELLANT

Vs

Regional Provident Fund Commissioner

RESPONDENT

Date of Decision : 01-03-2000

Acts Referred:

Citation : (2001) 2 LLJ 1046

Hon'ble Judges : A.M. Sapre, J

Bench : Single Bench

Advocate : G.S. Patwardhan, for the Appellant; Sharma, for the Respondent

Final Decision : Dismissed

Judgement

A.M. Sapre, J.—Challenge in this writ under Articles 226 and 227 of the Constitution of India, is to an appellate order dated January 19, 2000 (Annexure P7) passed by Employees' Provident Fund Appellate Tribunal u/s 71 of Employees' Provident Funds And Miscellaneous Provisions Act, 1952, which in turn affirms the order dated April 9, 1999, passed u/s 7A ibid.

2. The main factual question that came up for consideration before the two authorities was the date on which the petitioner began their production. It was the case of petitioner that they started production from July 1994 whereas, the case of respondent was that it was from April 1, 1993. Both the authorities below did not accept the case of petitioner and held that the actual date on which the petitioner started production was April 1, 1993, for coming to this conclusion, the authorities below relied on the report dated May 20, 1993 of factory supervisor which was forwarded to Regional Director, clearly stating therein that the production in petitioner's Unit began from April 1, 1993

3. This Court in this writ jurisdiction cannot and would not like to disturb this factual finding. Even otherwise, it cannot be regarded as perverse nor without evidence. It is based on the report of factory supervisor.

4. Learned counsel for the petitioner made attempts to assail these findings contending that it is not properly signed, that the fact that connection of electricity was taken in July, 1994, was not taken into consideration has no basis. This aspect of the matter was gone into by the appellate authority in para 4 and negated by giving cogent reasons. I am inclined to affirm the said finding.

5. In my opinion, the appellate Court though affirmed this finding rightly remanded the case to authority concerned for holding another factual inquiry as to how many employees can be excluded or how many can be included. Learned counsel stated that this inquiry was conducted and since an adverse order was passed against the petitioner, they are in appeal which is pending. Be that as it may, it is not for this Court to go into this aspect of the matter as it is not being assailed in this petition.

6. To sum up I do not find any merit in this writ. It is accordingly dismissed. No costs.