

(2015) 06 MAD CK 0038

In the Madras High Court

Case No : W.A. (MD) No. 904/2012 and M.P. (MD) No. 1/2012

Regional Provident Fund Commissioner, Employees Provident
Fund Organisation

APPELLANT

Vs

Employees' Provident Funds Appellate Tribunal, New Delhi
and Others

RESPONDENT

Date of Decision : 11-06-2015

Acts Referred:

Citation : (2015) LLR 1253

Hon'ble Judges : Sanjay Kishan Kaul, C.J. and S. Manikumar, J.

Bench : Division Bench

Advocate : V.S. Karthi, Advocate, for the Appellant

Final Decision : Dismissed

Judgement

Sanjay Kishan Kaul, C.J.

1. The case of appellant department is that the regular employees of the 2nd respondent establishment were being shown as apprentices, though they were performing regular duties and on an inspection being carried out, a demand of Rs. 1,50,071 was raised. This demand was assailed before the 1st respondent appellate tribunal. The appellate tribunal, on appreciation of material on record, including the documents, came to the conclusion that the workers alleged to be performing the regular duties were in fact apprentices and were those not covered by the provisions of The Employees Provident Funds and Miscellaneous Provisions Act, 1952. The Department took the matter further by preferring a writ petition, which has been dismissed by the impugned order, dated 23.08.2012, by the learned Single Judge. The findings of the learned Single Judge are hereunder:

"4. The learned counsel appearing for the petitioner contends, that the numbers of apprentices were more than the regular employees and therefore the impugned order cannot be sustained. This contention cannot be accepted,

because the mode of appointment of apprentices is different from the regular appointment and on the basis of documents placed on record by the department and the employer, the Appellate Authority has recorded a finding of fact that the workers said to be regular were only apprentices and not regular employees and thus not covered under the Employees Provident Fund Act. This Court in exercise of Writ Jurisdiction does not sit in appeal to reappraise the evidence unless the findings are perverse or are not capable of being arrived at, merely because other view is also possible cannot be a ground to interfere. The only ground of challenge is that apprentices were more than regular employee which cannot be accepted, as a positive finding of fact cannot be interfered with on presumption."

2. On hearing the learned counsel for the parties, we find no fault with the findings recorded by the learned Single Judge in paragraph 4, aforesaid. It is trite to say that the process of appointment of regular employees and apprentices are different and, it is on appreciation of documents, the appellate authority came to the conclusion that certain persons, who were sought to be treated as employees of the 2nd respondent establishment, were only apprentices. We thus find no reason to interfere with the impugned order. The writ appeal, accordingly, stands dismissed. No costs.

Connected miscellaneous petition is also dismissed.