

(2009) 10 KL CK 0122

In the High Court Of Kerala

Case No : W.A. No's. 1069 and 1082 of 2009

Thankamma Baby

APPELLANT

Vs

Employees Provident Fund Appellate Tribunal and Another

RESPONDENT

Date of Decision : 29-10-2009

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 1, 1(3), 1(4), 1(5), 16
Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 — Section 15

Citation : (2010) 127 FLR 353 : (2010) 3 LLJ 439

Hon'ble Judges : S.R. Bannurmath, C.J; Kurian Joseph, J

Bench : Division Bench

Advocate : Joseph Kodianthara, Mathews K. Uthuppachan, Terry V. James and B.J. John Prakash, for the Appellant; N.N. Sugunapalan, P.F. and T.N. Girija EPF Organisation, for the Respondent

Final Decision : Dismissed

Judgement

Kurian Joseph, J.—Provident Fund is intended to provide for the welfare of the employees. The Act is specifically captioned as the "Employees Provident Fund Act." An employee takes birth only through an employer. The backbone of employer is the employee. Inter-dependence is hence an existential factor for both. However, in view of the contributory nature of the provident fund, certain small establishments were excluded from the purview of operation of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, apart from the statutory exemption in the case of employees who are similarly or otherwise provided such benefits. This much introduction on the welfare legislation would serve as a prelude to the interpretation of the provisions of the Act while analysing the question arising for consideration in these appeals. The main question is whether a factory which is not engaged in an industry is covered by the Act.

2. Short facts. The appellants are the writ petitioners. They are proprietors of

two factories. The said factories are engaged in the manufacture, assembly and sale of umbrellas. The factories are registered under the provisions of the Factories Act and are also covered by the Employees State Insurance Act. The contention is that being factories not engaged in any industry as specified in Schedule I of the Act, they are not covered by the provisions of the EPF and MP Act, 1952. The Provident Fund Organisation and Tribunal held against the petitioners. According to the Provident Fund Organisation, the establishment of the petitioners are covered by Entry 24 of the Notification, namely "every trading and commercial establishment engaged in the purchase, sale or storage of any goods, including establishment of exporters, importers, advertisers, commission agents and brokers and commodity and stock exchanges but not including banks or warehouses established under any Central or State Act." The Tribunal took the view that the establishment would also be covered by item 3 of the notification namely, electrical, mechanical or general engineering products. The learned single Judge examined the question as to whether the petitioners' establishment will be covered by the trading and commercial establishment and held against the petitioners and hence the appeals. The other question was left open.

3. Section 1(3) of the Act provides for the application of the Act. It reads as follows:

1(3) Subject to the provisions contained in Section 16, it applies:

(a) to every establishment which is a factory engaged in any industry specified in Schedule I and in which twenty or more persons are employed, and

(b) to any other establishment employing twenty or more persons or class of such establishments which the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that the Central Government may after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment employing such number of persons less than twenty as may be specified in the notification.

Section 16 provides as follows:

16. Act not to apply to certain establishments.:

(1) This Act shall not apply:

(a) to any establishment registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any State relating to co-operative societies, employing less than fifty persons and working without the aid of power; or

(b) to any other establishment belonging to or under the control of the Central Government or a State Government and whose employees are entitled to the benefit of contributory provident fund or old age pension in accordance with any scheme or rule framed by the Central Government or the State Government

governing such benefits; or

(c) to any other establishment set up under any Central, Provincial or State Act and whose employees are entitled to the benefits of contributory provident fund or old age pension in accordance with any scheme or rule framed under that Act governing such benefits.

(2) If the Central Government is of opinion that having regard to the financial position of any class of establishments or other circumstances of the case, it is necessary or expedient so to do, it may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt whether prospectively or retrospectively, that class of establishments from the operation of this Act for such period as may be specified in the notification.

4. Sri. Joseph Kodianthara, learned Counsel appearing for the appellants/petitioners submits that Section 1(3) on coverage takes in only two categories; (1) factories engaged in industries covered by Schedule I; and (2) other non-factory establishments. The contention is that a factory which is not an industry covered by Schedule I is excluded from the purview of coverage of the Act. In other words, being factories not engaged in an industry as notified under Schedule I, the petitioners' factories cannot be brought under "other establishments" as appearing u/s 1(3)(b).

5. The term "establishment" as such is not defined under the Act. So we will have to go by the general meaning of the expression. In order to understand the general meaning of the expression it would be profitable to refer to the definition of factory, industry and manufacture as provided under the Act. Factory is defined u/s 2(g) as meaning "any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried on, whether with the aid of power or without the aid of power." Industry is defined u/s 2(i) as follows:

"industry" means any industry specified in Schedule I, and includes any other industry added to the Schedule by notification u/s 4.

Manufacture is defined u/s 2(ic), as follows:

2(ic) "manufacture" or "manufacturing process" means any process for making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal.

It would also be profitable to refer to the definition of the term "employee" u/s 2(f) which reads as follows:

2(f) "employee" means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of an establishment, and who gets his wages directly or indirectly from the employer, and includes any person,-

(i) employed by or through a contractor in or in connection with the work of the establishment;

(ii) engaged as an apprentice, not being an apprentice engaged under the Apprentices Act, 1961 (52 of 1961), or under the standing orders of the establishment.

The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 is intended "...to provide for the institution of provident funds, pension fund and deposit-linked insurance fund for employees in factories and other establishments" as is stated in the preamble. There cannot be any dispute that the Act is a piece of welfare legislation intended for the welfare of the employees. There is no dispute that there are more than 20 employees in the factories or establishments of the petitioners. The situation emerging from the factual matrix as appearing in these cases is that in the factories run by the petitioners where there is a manufacture or a manufacturing process is involved, there are 20 or more employees. There is no dispute that the factories do not come under industries specified under Schedule I. But the crucial question is, is not the factory of the petitioners an establishment coming under the notified establishments? As already noted by us above, though employer, employee, factory, industry, manufacture etc. are defined under the Act, the expression "establishment" is not defined. Therefore, we have to understand, particularly in interpreting a welfare legislation, the term "in common parlance". Any meaning to an expression in common parlance cannot be anathemic to the meaning in legal parlance though the vice versa may not always be true, since in construing certain statutes, particularly fiscal statutes the Court may give strict construction to the expressions in the statutes. But such a strenuous exercise is not warranted in construing an expression used in a welfare legislation. It is a basic principle of interpretation that "the Court should, as far as possible, avoid any decision or interpretation of a statutory provision, rule or bye-law which would bring about the result of rendering the system unworkable in practice" Maharashtra State Board of Secondary and Higher Secondary Education and Another Vs. Paritosh Bhupeshkumar Sheth and Others, . And it is the cardinal rule of interpretation that the Court should always adopt a purposive interpretation, particularly in a welfare statute. A provision in a statute has to be understood, interpreted and applied keeping in mind the object of the statute. If two interpretations are possible, the interpretation favouring the object of the statute has to be adopted. As observed by us above, the EPF & MP Act is a welfare legislation intended for the welfare of the employees and not the employers. The employees are persons employed for wages in any kind of work, manual or otherwise, in connection with the work of an establishment. There is no case for the petitioners that 20 or more persons are not employed for wages in their establishments.

6. The dictionary meaning of "establishment" is, an organization, a large institution or a hotel, an educational establishment, a research establishment.

(Oxford Advanced Learned Dictionary) In Words and Phrases "establishment" in general: means a permanent commercial organization or a manufacturing establishment. It is significant to note that though the expression establishment as such is not defined, exempted establishment has been defined u/s 2(fff) as follows:

2(fff) "exempted establishment" means an establishment in respect of which an exemption has been granted under Section; 17 from the operation of all or any of the provisions of any Scheme or the Insurance Scheme, as the case may be, whether such exemption has been granted to the establishment as such or to any person or class of persons employed therein.

It is also significant to note the opening words of Sections 1(3) - "subject to the provisions contained in Section 16". It is thus clear that the exempted and statutorily excluded establishments only are taken away from the purview of Section 1(3)(b) of the Act. We do not think that further discussion on the meaning of the expression "establishment" is necessary, since there is no serious dispute that the concern of the petitioners is not an establishment. Hence the question is whether the establishment is one notified by the Central Government. Trading and Commercial establishments engaged in purchase and sale or storage of goods was notified as an establishment coming u/s 1(3)(b) with effect from April 30, 1962. In the manufacture and sale of umbrellas there cannot be any dispute that the purchase, storage and sale of goods are involved. Thus the establishment of the petitioner is a commercial and trading establishment. Then the question is whether such a commercial and trading establishment, which is a factory not engaged in industry specified in Schedule I, is covered by the expression "other establishment" as appearing u/s 1(3)(b) of the Act.

7. The contention is that u/s 1(3)(a) factories engaged in the scheduled industries alone are covered and the factories engaged in the non-scheduled industries are totally excluded from the purview of the Act. In other words, the factory of the petitioners engaged in the manufacture and sale of umbrellas being not included in the schedule u/s 1(3)(a) is excluded from the coverage of the EPF & MP Act. Only non-factory establishments, as notified by the Central Government alone, are covered u/s 1(3)(b). Counsel relies on the decision of the High Court of Madhya Pradesh in Radhakrishnan Narayandas, a firm Vs. Regional Provident Fund Commissioner and Another, . It has been held therein that the expression "any other establishment" appearing in Section 1 (3)(b) is in contra-distinction to the word "factory" as appearing in Clause (a). In other words, according to the Madhya Pradesh High Court, the EPF & MP Act does not cover a factory other than those engaged in industries included in Schedule I. The relevant paragraph at page reads as follows at p. 653:

There is no substance in any of these contentions. The plain language of Clauses (a) and (b) of Section 1(3) of the Act shows that whereas by Clause (a) the Act has been made applicable to every establishment which is a factory engaged in any industry specified in Schedule I and in which the prescribed minimum of

persons are employed, Clause (b) makes a provision for the applicability of the Act to "any other establishment" employing twenty or more persons or class of such establishments which the Central Government may, by notification specify in that behalf. The expression "any other establishment" occurring in Section 1(3) (b) is in contra-distinction to the word "factory" used in Clause (a) and means any establishment which is a "non-factory establishment." There are no words in Clause (b) indicating that a non-factory establishment, to which the Act may be made applicable by the issue of a notification in exercise of the power under that clause, must be also of an industry specified in Schedule I. Clause (b) clearly gives to the Central Government the power to apply the Act to "any other establishment", that is to say, an establishment, which is not a factory establishment, no matter whether the "any other establishment" belongs to an industry specified or not specified in Schedule I. Such a reading of Section 1(3) does not make Section 4 otiose. That Section gives to the Central Government the power to issue a notification adding to Schedule I any other industry. When such an addition is made, the Act would then apply to the factory establishment of the industry as provided by Clause (a) of Section 1(3). It must be noted that Clause (b) does not give to the Central Government the power to extend the applicability of the Act to factory establishments not specified in Schedule I. It only enables the Central Government to make the Act applicable to non-factory establishments. That being so, the exercise of the powers under Clause (b) of Section 1(3) so as to make the Act applicable to non-factory establishments even in an industry not specified in Schedule I cannot make Section 4 superfluous.

The same view was followed in principle by the Madras High Court in *The Chennimalai Weavers' Co-operative Production and Sale Society Limited Vs. The Government of India and Others*, . We are afraid the contentions cannot be appreciated. It is true that all factories are establishments though all establishments may not be factories. The expression u/s 1(3)(a) takes in only those establishments which are factories and which are engaged in the industries specified under Schedule I, whereas u/s 1(3)(b) "other establishments, whether factories or non-factories" which are included in the notification issued by the Central Government, are covered by the Act. In other words, be it a factory establishment or a non-factory establishment, the EPF & MP Act covers such establishments u/s 1(3)(b) of the Act, in case those establishments employ 20 or more persons and in case those establishments are specified by the Central Government in the notification. This Court in *Provident Fund Inspector, Quilon Vs. Kerala Janatha Printers and Publishers (P) Ltd., Trivandrum and Another*, has dealt with the very same contention while considering the question as to whether newspaper establishments are factories or not and whether they are covered by the Act. This Court has taken the view that whether factories or not and whether those factories are engaged in industries or not, Section 1(3)(b) of the Act applies to all establishments except factories engaged in the industries specified in Schedule I. The Court has also taken note of the background of the legislation as originally introduced applying only to factories and the scope of the

amendment in 1956 widening the scope of the Act to include other establishments. Paragraphs 9 and 10 of the judgment have succinctly dealt with the issue, which read as follows:

9. This argument appears to be ingenious; and its ingenuity equals its fallacy. By Clause (a) of sub-section 3 of Section 1 only factories employing twenty or more men engaged in specified Industries are brought within the Provident Funds Act. To all other establishments, factory or non-factory, whether engaged in industry or otherwise, the Act may be applied by resorting to notification under Clause (b) of Sub-section 3 of Section 1. Factories engaged in industries other than those mentioned in Schedule I may also be brought within the ambit of the Act by a notification u/s 4, thus adding to Schedule 1. What Section 15 of the Working Journalists Act does is not to bring newspaper establishments within Schedule 1 of the Act. Newspaper establishments may still be brought within the scope of the Act by notification under Clause (b) of Sub-section 3 of Section 1, whether they are factories or not, whether they are engaged in industries or not; because, Clause (b) applies to all establishments, factories or otherwise, with the only exception of factories engaged in the industries specified in Schedule I.

10. If the history of the amendments to the Provident Funds Act is borne in mind, the position will be clear. The Provident Funds Act of 1952 was intended to apply only to factories. But in 1956, by Act 94 of 1956, sub-section 3 of Section 1 was amended so as to widen the scope of the Act and to bring non-factory establishments also within its ambit by notification by the Central Government. The present position therefore is that if a factory engaged in a particular industry is to be brought within the scope of the Act, it may be done by adding to Schedule 1 u/s 4. If, on the other hand, any establishment, factory or non-factory, whether, engaged in industry or not, is to be brought within the Act, that can be done by issuing a notification under Clause (o) of sub-section 3 of Section 1.

8. We also find that the High Court of Bombay in the decision in Central Hindustan Orange and Cold Storage Co. Ltd. Vs. Prafullachandra Ramachandra Oza, , also had occasion to deal with the issue. It was held that all establishments have been divided into two categories; (1) factory engaged in a scheduled industry and (2) factories and non-factories included in the notification issued by the Central Government. The relevant paragraph 21 (A) reads as follows:

21 (A) It is contended by Mr. Moharir that Section 1(3)(b) of the Act relates only to non-factory industries as opposed to factory industries stated to be covered by Section 1(3)(a) of the Act. For this purpose, a strong reliance has been placed on the word "non-factory" used in the heading in Appendix I at page 22 of the publication. The Employees Provident Funds Act, 1952 and the Employees Provident Fund Scheme, 1952 with short notes by the Eastern Book Company. This Appendix does not appear to be a part of the Act, but is a compilation of the various notifications issued from time to time by the government bringing the

various industries within the purview of the Employees' Provident Funds Act, 1952. The word "non-factory" used in this heading in Appendix I, therefore, will not be a good guide to find out whether the provisions of Section 1(3)(b) of the Act are meant only for the "non-factory" industries. By virtue of Section 1(3)(b) the Act is made applicable to any other establishment which the Central Government may, by notification in the Official Gazette, specify in this behalf. It appears that Sub-section (3) is divided into two parts. Clause (a) of Sub-section (3) relates to establishments which are factories engaged in the industries specified in Schedule I. It is not made applicable to all the factories but only to those specified in schedule I. The intention of Section 1(3)(b) appears to be from the reading of the opening words "to any other establishment..." to cover all other establishments, whether factory or non-factory and which are not given in Schedule I. Clause (a) of Sub-section (3) of Section 1 of the Act restricts the application to some industries and as soon as the industries are specified in Schedule I, the Act is automatically made applicable to those industries by its own force. So far as the other establishments are concerned, that can only be done by the Central Government issuing a notification. Other establishments are ipso facto not covered unless a notification to that effect is issued. It is contended by the learned Counsel for the applicant that the two Clauses (a) and (b) of Sub-section (3) of Section 1 of the Act are mutually exclusive and as Clause (a) refers only to factories, therefore, Clause (b) must necessarily refer to non-factories and factories cannot be included in the same. The reading of these two clauses does not show that these two clauses can be read as mutually exclusive of each other. It only divides all establishments into two compartments, not factory and non-factory, but factory engaged in a scheduled industry and other factories and non-factories with respect to which the Central Government may issue a notification. In that sense they could be said to be mutually exclusive of each other but not in the sense in which the learned Counsel for the applicant wants that to be...

The High Court of Bombay had another occasion to consider the issue in *Varjivandas Hirji and Co. Vs. D.T. Ghatpande and Another*, . It was held therein that Clause (b) of Section 1(3) takes in all establishments which do not come under Clause (a), whether factory or not. Paragraphs dealt with the said issue which read as follows at p.749 of LLJ:

We are, however, of the opinion that by the interpretation suggested by Mr. Rangnekar, Section 4 will not be rendered redundant or meaningless. u/s 4 the Central; Government can by a notification add to Schedule I the entire industry, while u/s 1(3)(b) they can extend the Act even to a single establishment or a class of establishments. Clause (b) permits of; classification within the industry, which Section 4 does not. u/s 4 either the entire industry has to be included or not included. Section 16 provides that the Act is not to apply to certain establishments. Sub-section (2) of Section 16 provides that if the Central Government is of the opinion that having regard to the financial position of any class of establishments or other circumstances of the case, it is necessary or,

expedient to exempt any class of establishments from the operation of the Act, it may by a notification do so. This would indicate that there could be several considerations such as financial position of any class of establishments or other circumstances due to which the Central Government may rightly like to extend the provisions of the Act only to a specified establishment or a specified class of establishments. Section 1(3)(b) will enable the Central Government to do this. They could possibly not do this u/s 4. The two provisions fulfil a distinct purpose, and there is no substance in the argument that the interpretation suggested by Mr. Rangnekar will render Section 4 meaningless.

We also find by going through the Act that the word "establishment" is used in Sub-sections (4) and (5) of Section 1 and also in Sections 16 and 17 and may be in other parts of the Act, indicating that the word "establishment" is used as genus, of which a factory is a specie. It may be that to a certain extent the provisions of Section 4 may overlap the powers of the Government u/s 1(3)(b). But this we suppose would be a necessary measure as a matter of abundant caution to cover cases which would not fall u/s 1(3)(b). But as we have pointed out that Section 1(3)(b) permits of not only classification but of application of the Act to an individual establishment, this provision serves a distinct purpose. There is nothing inconsistent in the scheme of the Act with the view that Section 1(3)(b) applies to all establishments whether such establishments are or are not factories. The expression "any other establishment" in Clause (b), is capable of the interpretation that the reference is to any establishment that does not fall under Clause (a), whether such establishment is or is not a factory. We have therefore no hesitation in accepting that interpretation, as that interpretation will extend the benefit of this beneficent piece of legislation to a larger number of persons.

9. In *Ojas Corporation v. Regional Provident Fund Commissioner* 1970 Lab.I.C. 81, the High Court of Gujarat considered two specific questions; (1) Whether a factory not engaged in any industry specified under Schedule 1 can be brought u/s 1(3)(b) as "any other establishment"? and (2) If the answer is in the affirmative, whether Section 4 of the Act would become meaningless? As far as the first question is concerned, it was held that under the two Clauses (a) and (b) of Section 1(3), the establishments are divided into two parts; (1) factories engaged in scheduled industry and (2) other establishments, whether factory or non-factory, in respect of which a notification had been issued by the Central Government. The said aspect has been dealt with at paragraph 5 of the judgment, which reads as follows:

5. The word "establishment" is used not only in Sub-section (3) but also in some of the other Sections of the Act, for example, Sections 16 and 17 and Sub-sections (4) and (5) of Section 1. It appears that the word "establishment" has been used as a genus of which the factory is a species. Clause (a) of Sub-section (3) makes the Act applicable to every establishment which is a factory and which is engaged in any industry specified in Schedule I. Clause (b) of that sub-section

makes the Act applicable to "any other establishment" or class of establishments which the Central Government may, by notification in the Official Gazette, specify. There are no restrictive words used in Clause (b) which would indicate that the application of the Act by a notification must be limited to cases which are not factories. On a plain reading of Clauses (a) and (b) it appears that Clause (b) would apply to any other establishment, whether such establishments are or are not factories. It would be seen that Clause (a) of Sub-section (3) of Section 1 relates to establishments which are factories engaged in industries specified in Schedule I and thus it has not been made applicable to all the factories but only to those which have been specified in Schedule I. The intention of Clause (b) appears to be to make the Act applicable to all other establishments, whether factory or not and which are not included in Schedule I. The Act can be made applicable to industries which are specified in Schedule I and on such inclusion, the factories engaged in the industry so included, would be covered by the Act. But establishments other than those not falling within the scope of Clause (a) cannot be covered unless a notification to that effect was issued. A plain reading of these two clauses together does not indicate that these two clauses could be read as mutually exclusive of each other. All that the two clauses purport to achieve is that they divide establishments into two parts one being factories engaged in a scheduled industry and the other, establishments whether factories or non-factories in respect of which a notification has been issued by the Central Government.

The question as to whether Section 4 would be rendered nugatory was considered at paragraph 6 of the judgment. It was held that both provisions do not cover identical issues and both are intended to achieve distinct purposes. Paragraph 6 reads as follows:

6. The next question is whether by such construction, Section 4 of the Act would be rendered nugatory and meaningless. If we look into the provisions of Section 4 it gives power to the Central Government to add to Schedule I any other industry in respect of the employees whereof the Central Government is of opinion that the Provident Fund Scheme should be framed and the effect of a notification issued u/s 4 is that the industry so added shall be deemed to be an industry specified in Schedule I. What Section 4, therefore, contemplates is the addition of an entire industry to Schedule I. While taking action u/s 4 the Central Government has to decide as to whether an entire industry requires to be included so as to make the Act applicable. Clause (b) of Sub-section (3) of Section 1, however, provides for the application of the Act to any other establishment or class of establishments and the effect, therefore, of Clause (b) is that the Act could be extended to one establishment or to a class of establishments thus permitting classification within an industry. It will be seen that such division or classification is not permissible u/s 4 under which notification could be issued only in case where the entire industry is sought to be included. It is possible, therefore, that while taking action u/s 4, different considerations might prevail from those which would prevail while taking action

under Clause (b) of Sub-section (3) of Section 1. It is possible that to some extent the provisions of Section 4 may overlap the powers under Sub-clause (b) but it cannot be said that both the provisions cover an identical matter. There might be considerations applicable to a class of establishments and there might be particular circumstances on account of which the Central Government might contemplate to extend the provisions of the Act to a specified establishment or a class of establishments which would be permissible under Clause (b) of Sub-section (3). In such a case it would be necessary to take action under this clause and not u/s 4. This shows that both the provisions, namely, Clause (b) of Sub-section (3) of Section 4 may fulfil a separate and distinct purpose and in this sense it cannot be said that the two provisions would necessarily overlap in each and every case. We are, therefore, unable to accept the argument of Mr. Patel that Clause (b) of Sub-section (3) of Section 1 can be made applicable only to non-factory cases....

The irresistible inference is that Section 2(3)(a) of the EPF & MP Act takes in only factories engaged in industries specified in Schedule I; whereas Section 1(3)(b) takes in all other establishments - factories or non-factories, notified by the Central Government. With great respect, we are not persuaded by the decisions of the Madhya Pradesh High Court in *Radhakrishna Narayandas v. Regional Provident Fund Commissioner* (supra) and that of the Madras High Court in *Chennimalai Weavers Co-operative Production v. Sale Society Ltd.*, (supra).

10. On the factual matrix it is not necessary for us to embark upon an enquiry as to whether these factories are engaged in the manufacture of "stationary products" (an item included in Schedule I) or whether they are engaged in manufacture of electrical, mechanical or general engineering products (an item included in Schedule I). Those contentions are left open.

11. In the light of the discussions we have already made above it can be seen that the Act which is intended for the welfare of the employees exempted only those establishments specifically exempted under Sections 16 and 17. For that reason also, it has to be held that Section 1(3)(b) applies to all establishments other than those covered by Section 1(3)(a), as notified by the Central Government. The factories which are not engaged in the industries specified in Schedule I are covered by Section 1(3)(b), in case such factories come under the establishments notified by the Central Government for the purpose of coverage. We are in full agreement with the view taken by this Court in *Provident Fund Inspector, Quilon v. Kerala Janatha Printers and Publishers (P) Ltd.*, Trivandrum (supra) and that of the Bombay High Court in *Central Hindustan Orange and Cold Storage Co. Ltd. v. Prafullachandra Ramachandra Oza*, (supra) and *Varjivandas Hirji & Co. v. Regional Provident Fund Commissioner (D. T. Ghatpude)* (supra).

12. Thus we find no merit in the writ appeals. They are accordingly dismissed.