

(2010) 07 P&H CK 0196
In the Punjab And Haryana At Chandigarh

The Provident Fund Inspector

APPELLANT

Vs

Sh. Rajinder Singh Sodhi and Another

RESPONDENT

Date of Decision : 26-07-2010

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 14(1A), 6A
Limitation Act, 1963 — Section 5

Citation : (2010) 07 P&H CK 0196

Hon'ble Judges : Jaswant Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Jaswant Singh, J.—This order shall dispose of 17* miscellaneous applications seeking leave to appeal against the order of acquittal passed by learned Judicial Magistrate Ist Class, Ropar acquitting the accused-respondents in complaint(s) filed under para 38 of the Employees Provident Fund Scheme 1952(for short 1952 scheme) and para 3 & 4 and para 42(d) of the Employees Pension Scheme 1995(for short 1995 scheme) read with Section 6A and 14(1A) of the Employees Provident Fund and Miscellaneous Provisions Act 1952 (for short 1952 Act), as common question of fact and law are involved in these applications. However, for the sake of convenience facts are being taken from Crl. Misc. No. 288-MA of 2010.

2. Since the application has been filed after a delay of 1397 days hence an application u/s 5 of the Limitation Act seeking condonation of delay has also been filed.

3. Facts leading to the filing of the leave to appeal are that as per provisions of 1952 Act the respondents were required to pay employees' and employer's share of contribution to the Employees Provident Fund in respect of employees on their rolls together with administration charges for every month within 15 days of the closure of the month. However, inspite of various requests by the

petitioner, respondents failed to pay the statutory dues detailed in the complaint.

4. Upon notice of the complaint, respondents put in appearance, pleaded not guilty and claimed trial. After hearing both the sides and perusing the material on record the learned Judicial Magistrate Ist Class, Ropar vide impugned order dated 30.9.2005 acquitted the accused-respondents of the notice served upon them on the grounds (i) that the complaint was barred by limitation; (ii) the complaint was filed without prior sanction of the sanctioning authority to prosecute the respondents; and (iii) the complainant-Provident Fund Inspector was not competent to file the complaint. It was further found by the learned trial Court that the respondents had already paid the statutory dues prior to the sanction of prosecution.

5. At the time of hearing of the present application(s) the attention of the learned Counsel for the petitioner was invited to the order dated 10.3.2010 passed by a co-ordinate Bench of this Court whereby similar application(s) in connected cases against the respondents were dismissed. The learned Counsel for the petitioner has very fairly stated that against the said order dated 10.3.2010 passed by this Court, dismissing the connected cases, the petitioner has not preferred any appeal.

6. The order dated 10.3.2010 reads as under:

There is an inordinate delay in filing of the appeal. For the reasons, specified by the counsel, delay in filing of the appeal is condoned. CM stands disposed of.

Heard.

The respondents have been acquitted by the trial court inter alia on the ground that the complaint was barred by time and that there was no proper sanction for launching prosecution. The respondents have also deposited the share of the company in the relevant account. The circumstances do not warrant interference on re-appreciation of evidence.

Dismissed.

7. In view of the above, I find that the present application(s) for leave to appeal is squarely covered by the order dated 10.3.2010 reproduced above and hence no interference is called for in the present application(s).

8. Accordingly, the present application(s) seeking leave to appeal is/are dismissed.

9. As regards the application seeking condonation of delay in filing the application seeking leave to appeal, in my opinion no further orders are required to be passed thereon.

10. Registry is directed to place a copy of this order on the file of connected applications.