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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 2107/2012

EMPLOYEES' PROVIDENT FUND ORGANISATION
AND ANR

..... Petitioners

Represented by: Ms.Aparna Bhat, Advocate with
Ms.Upasana Garnaik, Advocate

versus

A.K.SHARMA

..... Respondent

Represented by: Mr.M.K.Bhardwaj, Advocate

W.P.(C) 5023/2012

THE CHAIRMAN, CENTRAL BOARD OF
TRUSTEES

..... Petitioners

Represented by: Ms.Aparna Bhat, Advocate with
Ms.Upasana Garnaik, Advocate

versus

A.K.SHARMA

..... Respondent

Represented by: Mr.M.K.Bhardwaj, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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26.07.2013

1. First issue considered by the Tribunal was whether the charge sheet issued to the respondent was with the approval of the competent authority, who we note is the Chairman, CBT, EPF (the Hon'ble Minister of State for Labour and Employment). Holding that it was not so and as a result

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quashing the charge sheet, the second issued decided by the Tribunal is to the recommendations pertaining to the respondent at a DPC being kept in a sealed cover; and as a sequitur to the decision of the first issue, the Tribunal has directed the sealed cover to be opened and recommendations of the DPC to be implemented. But we find that the Tribunal did not look into the relevant record i.e. the files of the Employees' Provident Fund Commissioner and the Ministry of Labour and Employment.

2. Accordingly, with consent of learned counsel for the parties the two writ petitions stand disposed of setting aside the impugned order dated August 26, 2011 together with the corrigendum dated October 11, 2011 disposing of OA No.3486/2010 as also the order dated March 07, 2011 disposing of OA No.4212/2011.

3. Both Original Applications are restored.

4. The Tribunal shall, at the remanded stage, call for two files; being EPFO File No.Vig.VII(24) 2001 as also No.EPFO Vig.VII (24) 2001/3523. The file of Ministry of Labour and Employment No.C-11016/11/2008-SS-1 shall also be summoned. If any other relevant file would be necessary to be looked into, the same shall also be summoned and considered.

5. The reason is that the petitioner contends that approval of the Competent Authority i.e. the Chairman, CBT, EPF i.e. the Hon'ble Minister of State of the Ministry of Labour and Employment was obtained pertaining to the major penalty proceedings initiated against the respondent.

6. The Tribunal would specifically look into the record to determine: (i) What was the nature of approval granted i.e. was it limited only to initiate the disciplinary proceedings; (ii) Whether approval of the charge sheet was accorded by the Hon'ble Minister acting in his capacity as the Chairman of

CBT, EPF.

7. Needless to state if the writ petitioner, impleaded as a respondent, before the Tribunal wants to place any other relevant file which would throw light on the subject: Whether the Competent Authority i.e. the Chairman CBT, EPF accorded approval to the charge sheet and the disciplinary proceedings, would be looked into by the Tribunal.

8. The Tribunal would keep in mind the law declared by the Supreme Court in the decision dated April 06, 2011 in CA No.2958/2011, Chairman-cum-Managing Director of India Limited & Ors. Vs. Ananta Saha & Ors. Hopefully by the time the Tribunal decides, the decision of the Supreme Court which pertains to a matter relating to one B.V.Gopinath, currently awaiting pronouncement of decision before the Supreme Court would be rendered and the same would also be considered by the Tribunal.

9. Parties shall appear before the Registrar of the Tribunal on August 19, 2013 when the two Original Applications would be listed before the appropriate Bench of the Tribunal.

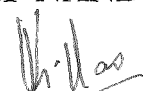
10. No costs.

11. DASTI.

CM No.4565/2012 in W.P.(C) No.2107/2012
CM No.10304/2012 in W.P.(C) No.5023/2012

Dismissed as infructuous.


PRADEEP NANDRAJOG, J.


V. KAMESWAR RAO, J.

JULY 26, 2013

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