

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.1132 of 2011

Date of decision: 04.08.2015

Regional Provident Fund Commissioner, Karnal ... Petitioner

Vs.

Riba Textiles and another ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Rajesh Hooda, Advocate
for the petitioner.

Mr. Rohan Sharma, Advocate
for respondent No.1.

AMIT RAWAL J. (Oral)

Challenge in the present writ petition is to the Award dated 09.04.2010, Annexure P-4, passed by the Employees' Provident Fund Appellate Tribunal, New Delhi, whereby, the appeal filed by M/s Riba Textiles has been remanded back to the Provident Fund Authority to assess the liability @ 27% inclusive of the interest under Sections 7Q and 14-B of the Employees Provident Fund & Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act, 1952').

Mr. Rajesh Hooda, learned counsel appearing on behalf

of the petitioner submits that the Presiding Officer while remanding back the matter could not have fixed/determine the quantum, which is totally contrary to para 32 of the Scheme, 1952, as the default is of more than six months and therefore, damage would be only 37% and the interest is 12%, which should have been 49% instead of 37%.

Mr. Rohan Sharma, learned counsel appearing on behalf of respondent No.1 submits that the order passed by the Presiding Officer is just, fair and legal as it is not mandatory for the Provident Fund Authority to assess the damages as per para 32 of the Scheme, 1952 in view of the language enshrined under Section 14-B of the Act, 1952.

I have heard learned counsel for the parties and appraised the paper book.

On going through the plain and simple language enshrined under Section 14-B of the Act, 1952, the Central Provident Fund Commissioner does not compulsorily have to impose damage as the word used is 'may'. The word 'may' envisages "it may think fit to impose".

The Presiding Officer while noting the contention of the respondents, confined the damages to the extent of 15% which in my view is erroneous, much less, illegal and inasmuch as that reduction in the damages can always be done as per the evidence and circumstances of viability to pay awarded amount. The circumstances explained before the authority was accepted by the respondent, as it

had suffered financial loss. Keeping in view the aforementioned, the Presiding Officer remanded back the matter by limiting the element of Sections 7Q and 14-B of the Act, 1952.

No fault can be found with the findings rendered by the Presiding Officer. There is no merit in the writ petition.

Accordingly, the writ petition is dismissed.

(AMIT RAWAL)
JUDGE

August 04, 2015
savita