

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

Civil Writ Petition No.20882 of 2010
Date of Decision: May 21, 2015

Punjab State Electricity Board, Patiala

...Petitioner

Versus

Employees Provident Fund Appellate Tribunal, New Delhi & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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

Present: Mr.Vikas Chatrath, Advocate,
for the petitioner.

Mr.Sanjay Tangri, Advocate,
for respondent No.2.

AMIT RAWAL, J. (Oral)

The challenge in the present writ petition is to the orders dated 26.5.2005 (Annexure P-9), passed under Section 7-A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (for short "1952 Act"), 12.5.2008 (Annexure P-14) passed on an application filed under Section 7-B of the Act and 11.6.2010 (Annexure P-15) passed by the Appellate Tribunal.

The petitioner is none else but Punjab State Transmission

Corporation Limited earlier known as 'Punjab State Electricity Board'.

Mr.Vikas Chatrath, learned counsel appearing for the petitioner submits that it had applied for allotment of Code. During the pendency of the said application, the petitioner continued to pay the contribution and deposited the contribution, detail of which has been given in para 5 of the writ petition, but, however, the Provident Fund Commissioner made the assessment of ₹2,96,581/-, whereby the petitioner was called upon to deposit the same. The petitioner is stated to have filed a review application on 30.10.2007 against the aforementioned order, but the same also met with the same fate vide order dated 12.5.2008 (Annexure P-14). The said order was assailed by filing an appeal before the Appellate Tribunal, which was also dismissed on 11.6.2010 (Annexure P-15). He submits that the Provident Fund Commissioner, while causing the assessment, has not given opportunity of hearing, much less, heard or even looked at the details, contribution and payments deposited from time to time.

Mr.Sanjay Tangri, learned counsel appearing for respondent No.2 submits that fifteen opportunities were given, but the petitioner appeared only once. The petitioner has given the details as shown in paragraph 5 of the writ petition for the first time in this Court. No such plea was taken in the application, whereby the review of the order of assessment was sought and as well as in the grounds of appeal.

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

Considering the rival submissions of the learned counsel for the parties, apparently it appears that the petitioner is stated to have deposited

their part of contribution, the detail of which has been given in paragraph 5 of the writ petition, but the fact remains that the petitioner did not bring to the notice of the Provident Fund Commissioner the aforementioned details, which resulted into passing of the assessment order. Since the petitioner is a company registered under the Companies Act, *prima-facie*, cannot fault in complying with the provisions of 1952 Act. Be that as it may, since the details of the contribution have not been denied in the written statement, I deem it appropriate to remand the case back to the Provident Fund Commissioner to decide the controversy with regard to the contribution having been deposited/or not for the period from May, 1998 to November, 2004.

In view of the aforementioned observations, the orders dated 26.5.2005 (Annexure P-9), 12.5.2008 (Annexure P-14) and 11.6.2010 (Annexure P-15) are hereby set-aside. The matter is remitted back to the Provident Fund Commissioner, Chandigarh to pass a fresh order after considering the contentions/submissions of the petitioner as to whether any contribution with regard to the aforementioned period has been deposited or not.

It is expected that the Provident Fund Commissioner shall, while considering the case of the petitioner, adhere to the principles of natural justice, much less, pass the order in accordance with law.

The Provident Fund Commissioner is directed to pass the order within a period of three months from the date of appearance and in case the petitioner-Corporation is found entitled to any benefit, the same shall be released within a further period of two months.

The parties are directed to appear before the Provident Fund Commissioner, Chandigarh on 8.6.2015.

Liberty is also granted to the petitioner to submit the written submissions duly supported by documentary proof.

The writ petition is accordingly disposed of.

May 21, 2015
ramesh

(AMIT RAWAL)
JUDGE