

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2917 OF 2015

Central Board of Trustees	...Petitioner
V/s.	
Malegaon Sahakari Sakhar Karkhana Ltd.	...Respondents

Mr. Suresh Kumar, for the Petitioner.

Mr. Akshay R. Kapadia i/b. J. Shekhar & Co.,
for the Respondents.

CORAM : M.S. SONAK, J.

DATE : 25th APRIL, 2016.

P.C.

1] The matter was called out in the morning session. At the request of learned counsel appearing for the petitioner, the matter was posted at 12.30 p.m. on the assurance that Mr. Suresh Kumar, learned counsel for the petitioner will appear at that time. However, since Mr. Suresh Kumar has not appeared even at the second call, this petition is dismissed for non-prosecution.

2] **Later on at 1.20 p.m.**:- Mr. Suresh Kumar has appeared and offered explanation that he was held before the other court and therefore could not remain present. In view of this explanation, the order dismissing this petition for non prosecution is recalled. Place the matter at 3.00 p.m..

3] **At 3.00 p.m. :-**

Heard the learned counsel for the parties.

4] Upon perusing the record and the impugned order made by the Employees Provident Fund Appellate Tribunal (EPFAT), I am satisfied that there is no jurisdictional error in the making of the impugned order. The assessment in this case is from 1987-1988 to 2000-2001. The Enquiry Officer has hardly carried out any enquiries in the matter for the purposes of determination of liability, if any. The Enquiry Officer had, at one stage sought to place reliance upon report of the Squad, which was deputed for the purposes of ascertaining details. The Revisional Provident Fund Commissioner in his order dated 15.5.2012 has chosen to even disbelieve the report or the

deposition of the squad members. This matter has a chequered history and despite, previous remand, the Authorities have not been able to ascertain the beneficiaries, in respect of whom the liability sought to be foisted upon the respondent. The assessment period is more than two decades old. In these circumstances, the EPFAT, cannot be said to have exceeded its jurisdiction in making the impugned order.

5] The EPFAT has rightly relied upon the decision of the Hon'ble Apex Court in the case of *Himachal Pradesh State Forest Corporation Vs. Regional Provident Fund Commissioner, (2008) LLR 980*, in which, it is held that the amounts due from the Corporation will be determined only with respect to those employees who are identified and whose employment can be proved and in the event record is not available with the Corporation, at such belated stage, it would not be obliged to explain its own lapse or that any adverse be drawn by this court. In the said decision also the records were in respect of period about 20 years earlier.

6] In the aforesaid reasons, there is no case made out to interfere with the impugned order in exercise extraordinary jurisdiction. This petition is therefore, dismissed. There shall be no order as to costs.

(M.S. SONAK, J.)