

\$~33

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 1923/2016**

**CENTRAL BOARD OF TRUSTEES THROUGH REGIONAL
PROVIDENT FUND COMMISSIONER** Petitioner

Through: Mr.Keshav Mohan with Mr.Piyush
Chaudhary & Ms.Anindita Barman,
Advs.

versus

CHANDIGARH MEDICAL AND RESEARCH CENTRE & ANR.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE V.P.VAISH

ORDER

% **03.03.2016**

CM No.8257/2016

Exemption allowed subject to all just exceptions.

The application stands disposed of.

W.P.(C) 1923/2016 & CM.No.8256/2016

1. The matter is taken up for hearing on urgent mentioning at 3.30 p.m.
2. The petitioner has challenged orders dated 12.02.2016 and 02.03.2016 passed by respondent No.2 in ATA No.197(11) 2002 titled as 'Chandigarh Medical & Research Centre vs. APFC, Chandigarh' whereby respondent No.2 has directed Central Provident Fund Commissioner to appear on 04.03.2016.

3. Learned counsel for the petitioner submits that vide order dated 12.02.2016, respondent No.2 directed for appearance of Central Provident Fund Commissioner, who is the Executive Head of Employees Provident Fund organization. He also submits that after passing of order dated 12.02.2016, Additional Central Provident Fund Commissioner (HQ) issued a letter bearing No. LC-7(12)2016/EPFAT/PB/40242 dated 19.02.2016 whereby officer incharge of the regions were directed to ensure that in all the cases EPFO is properly represented through empanelled advocates and that suitable replies/counter-replies/supplementary should be filed within time. It was further observed that any lapse in this regard shall be viewed very seriously.

4. Learned counsel for the petitioner further submits that the petitioner moved an application on 26.02.2016 which was dismissed on 29.02.2016. Thereafter, the petitioner moved another application for setting aside order dated 29.02.2016 and 12.02.2016. The same was disposed of vide impugned order dated 02.03.2016 and Central Provident Fund Commissioner was directed to appear.

5. A perusal of order dated 12.02.2016 reveals that the respondent herein Chandigarh Medical and Research Centre was proceeded ex-parte on 04.06.2010. Against the said order, respondent herein preferred – CWP No.2608/2010. Vide order dated 19.11.2012, Hon'ble High Court of Punjab and Haryana set aside the order of the Tribunal on the ground of improper opportunity of hearing to the respondent establishment. Thereafter, none appeared on behalf of the petitioner before the EPFAT. Vide order dated 12.02.2016, it was

observed that non-appearance of respondents or legal counsel in several appeals is a serious lapse on the part of respondent and just to avoid any multiplicity of litigation, the Tribunal is of the firm opinion that Central Provident Fund Commissioner who is the head of Provident Fund Organization should be called for explaining his position why appeals pending before this Tribunal are not being looked after by respondent or by empanelled counsels.

6. During the course of arguments, Mr.Keshav Mohan, learned counsel for the petitioner submits that Regional Provident Fund Commissioner, Chandigarh who is the head of the region shall appear before the Employees Provident Fund Appellate Tribunal (EFFAT) on 04.03.2016 and apprise the Court about the facts of the case. In view of the facts and circumstances of the case, it is deemed appropriate to dispose of the petition with the direction that the Regional Provident Fund Commissioner, Chandigarh shall appear before EPFAT on 04.03.2016, the date already fixed. In case learned Presiding Officer, EPFAT feels that the presence of Central Provident Fund Commissioner is required, order will be passed.

7. The petition as well as application stand disposed of accordingly.

DASTI.

V.P.VAISH, J

MARCH 03, 2016/gm