

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1600 of 2016

In
Civil Writ Jurisdiction Case No.13169 of 2011

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M/s Shankar Gas Services through its Proprietor Shankar Prasad Sah, Son of late Chhedi Prasad Sah, R/o Parwati Chawk, N.H. 80, P.S. Tatarpur, District-Bhagalpur

... .. Appellant/s

Versus

1. Union Of Indian through Regional Provident Fund Commissioner, Employees Provident Fund Organization, Regional Office, Road No.6, R.Block, Patna 800001

2. Assistant Provident Fund Commissioner, Employees Provident Fund Organization, Sub Regional Office, Adampur Chowk, Bhagalpur, Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Binay Kumar, Adv.

For the Respondent/s : Mr. Ram Shankar Pradhan, Sr. Adv.

Mr. Jainendra Kumar, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-11-2017

Delay of 326 days in filing of the appeal is condoned and I.A. No.6443 of 2016 is allowed and disposed of.

It is the Concurrent finding of fact recorded by the Assistant Provident Fund Commissioner, in a proceeding under Section 7A of the E.P.F. Act and the Employees Provident Fund Appellate Tribunal, New Delhi to say that the petitioner establishment has engaged more than 20 persons and, therefore, it is covered by the provisions of the Act. Even though learned counsel for the appellant tried to argue vehemently that 5 of the 20 employees were only engaged for loading of the cylinders and they



were not the employees of the petitioner, we find that in the order passed by the Tribunal it is seen that in the coverage proforma sent by the proprietor of the petitioner company itself, particulars of 20 persons are furnished and it is based on these that assessment has been done and a concurrent order has been passed by the Assistant Provident Fund Commissioner, under Section 7A of the Act and the same is affirmed by the Employees Provident Fund Appellate Tribunal, New Delhi.

Except for contending that the petitioner establishment has engaged less than 20 persons and the number of persons shown in proforma sent is an error of record, no cogent evidence is available on record to hold that the order of the Assistant Provident Fund Commissioner, in a proceeding under Section 7A of the E.P.F. Act, and that of the Employees Provident Fund Appellate Tribunal, New Delhi is illegal, perverse.

Accordingly, finding no merit in the appeal, we dismiss the same.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	
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