

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

CWP No.15555 of 2017

Date of Decision:19.07.2017

Grand Windsor Resorts Limited

... Petitioner

Vs.

Central Board of Trustees and another

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Ashish Chaudhary, Advocate for the petitioner.

P.B. BAJANTHRI J. (Oral)

In the instant petition, the petitioner has assailed order dated 12.5.2017 and 21.3.2017.

On 21.3.2017 an interim order has been passed by the Regional Provident Fund Commissioner under Section 7-A/14-B of EPF Act (it is stated to be only under Section 7-A). Reading of the order dated 21.3.2017, it is crystal clear that both the establishment and AEO were directed to appear on 7.4.2017 alongwith relevant documents for determination of dues in respect of subterfuge of wages.

Petitioner being aggrieved by the order dated 21.3.2017, preferred an appeal and the appellate court rejected the petitioner's appeal on 12.5.2017 stating that the appeal is premature on the ground that 7-A proceedings have not been concluded.

Learned counsel for the petitioner vehemently argued that findings arrived at by the Regional Provident Commissioner under Section

7-A Assessing Authority vide Annexure P-2 dated 21.3.2017 is contrary to the provisions of EPF Act. Therefore, he has challenged the same before the appellate authority. Appellate Authority has failed to appreciate the fact that there is a finding in the order dated 21.3.2017 which is against the petitioner. In not considering the same and holding that petitioner's appeal before the appellate authority is premature is not tenable.

Heard learned counsel for the petitioner.

Perusal of the order dated 21.3.2017 under Section 7-A, no doubt it is mentioned that “from the establishment case was reserved for order”. Further extract of the order is reproduced herein “ Both establishment and AEO shall be directed to be present on 7.4.2017 alongwith relevant documents for determination of dues in respect of subterfuge of wages”. Having regard to the order dated 21.3.2017, it is crystal clear that it is not a final order passed under Section 7-A of the EPF Act. That apart petitioner and AEO were directed to appear on 7.4.2017 for determination of dues. Therefore, stating that from the establishment case was reserved for order may not be happily worded. In other words, petitioner would be given an opportunity before the Authority as stated in the order dated 21.3.2017. Having regard to the facts and circumstances read with the fact that proceedings under Section 7-A of the EPF Act have not attained finality. Therefore, question of interference by this Court with the orders dated 21.3.2017 and 12.5.2017 do not arise. Petitioner's conduct in agitating the matter before appellate Tribunal and this Court shows that he is avoiding proceedings under Section 7-A.

Accordingly, petition stands dismissed with costs of Rs.10,000/- to be paid to the respondent-EPF Department within a period of

one month from today.

19.07.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No