

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-21063-2016 (O&M)

Date of Decision:-11.12.2017.

Executive Engineer, Shah Nahar Extn., Civil Division, Hoshiarpur, Punjab

.....Petitioner

Versus

Employees Provident Fund Appellate Tribunal and others

.....Respondents

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

Present: Mr. K.S. Dadwal, Advocate for the petitioner.

Mr. Rajesh Hooda, Advocate for respondent Nos.2 to 5.

Mr. Vishal Sharma, Advocate for

Mr. Sanjay Nagpal, Advocate for respondent Nos.6 to 9,
14, 15 to 20, 22, 26 and 28.

P.B. BAJANTHRI, J. (Oral)

Petitioner has prayed for the following relief:-

“i) Appropriate Writ, order or direction specially in the nature of certiorari for quashing the very initiation of the proceedings against the petitioner under Section 7-A of the Employees Provident Fund and Miscellaneous Provisions Act 1952 as well as all consequent proceedings including the Order dated 21.1.2016 released on 25.1.2016 passed by respondent no.3 (Annexure P-6), Order dated 21.3.2016 passed by respondent no.3 (Annexure P-7) and subsequent order dated 26.7.2016 passed by the respondent no.1 (Annexure P-11) and further the Notice of Demand

dated 22.9.2016 for prosecution dated 25.09.2016 passed by respondent no. 5 (Annexure P-12) being without jurisdiction and does not fall within the ambit of the provisions of Employees Provident Fund and Miscellaneous Provisions Act 1952 keeping in view the peculiar facts and circumstances, which are being set out in the Civil Writ Petition and further to issue a writ in the nature of mandamus directing the respondent nos.2 to 5 to take out the proceedings and effect the recovery from the respondent nos.6 to 29 who were the Contractors and have executed the work as per the requirement stipulated in the work order form, which were being issued to them, as would be apparent from the documents and material, which is being attached with the Civil Writ Petition.”

By virtue of interim direction, petitioner is stated to have deposited 30% of the determined amount under 7-A proceedings before the Appellate Tribunal. In view of the aforesaid development, present petition insofar as challenge to the decision of the Appellate Tribunal do not survive for consideration. Hence, order dated 26.07.2016 passed in ATA No.412(II) 2016 (Annexure P-11) is set aside and ATA No.412(II) 2016 is restored.

Accordingly, petitioner is permitted to pursue his remedy before the Appellate Tribunal. The Appellate Tribunal is hereby directed to give a date of hearing to the petitioner. The contractors are hereby directed to appear before the Appellate Tribunal or CGIT on 24.1.2018.

During pendency of this petition, Government of India has changed the Presiding Officer as well as Court for the purpose of entertaining appeal against 7-A proceedings from EPFAT to CGIT. If the petitioner makes necessary application before the EPFAT, the concerned

authority is hereby directed to transmit appeal papers & (ATA No.412(II) 2016) to the jurisdictional CGIT.

With the above observations, petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

December 11, 2017.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.