

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

LPA No.2517 of 2016 (O&M)

Date of Decision : 09.01.2017

Food Corporation of India and another

....Appellants

Versus

All India Food Corporation of India
Workers Union (INTEK) and others

....Respondents

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN**

Present: Mr. Manav Bajaj, Advocate for
Mr. Sumeet Goel, Advocate
for the appellants.

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MAHESH GROVER, J.

CM No.5239-LPA of 2016

Marginal delay of 14 days in filing the appeal is
condoned.

C.M.stands allowed.

LPA No.2517 of 2016 (O&M)

This appeal is directed against the judgment of the learned
Single Judge dated 04.11.2016 where assessment framed under
Section 7-A of the Employees Provident Fund and Miscellaneous
Provisions Act, 1952 (hereinafter known as 'the Act') was questioned
by the present appellants on the ground that the employees were in
fact engaged through a contractor who never appeared in the
proceedings thereby leaving the question of the number of employees
engaged in the Corporation to ambiguity. It is thus contended that the
authorities under the Act failed to enforce the presence of the

contractor thereby perpetuating the ambiguity to pass an order which would be unsustainable in law. The learned Single Judge declined interference and on the argument qua the ambiguity in the workers list opined that the presence of the contractor was inconsequential considering the fact that the list of employees before the authority under the Act was duly authenticated by the present appellants and was never disputed to be incorrect to the record.

Before us this is the solitary argument raised that the authority ought to have resorted to coercive process to enforce presence of the contractor through whose agency the employees were requisitioned by the appellants so as to establish the correctness of the list and strength of the number of employees engaged. It is specifically contended that in the absence of proper authentication such an assessment would naturally fall.

We have heard the learned counsel for the appellants and have probingly questioned him on the aforesaid issue. It has been categorically conceded that the list of employees before the authority under the Act even though disputed was never confronted by another list propounded to be the correct one. This would imply that the list which was available with the authority was never seriously disputed by the appellants by countering it. Even otherwise it is inconceivable that the appellants would not be having a parallel record of the employees working under it particularly when their wages etc. would be adjusted into their accounts against their names. Therefore, it would be naïve to accept the argument that the appellants had no

other record to counter the correctness of the list of the employees before the authority. No argument about the liability has been raised except to question it on the aforesaid issue.

We while concurring with the opinion of the learned Single Judge that the presence of the contractor would be inconsequential reject the argument advanced before us. Even otherwise, the appellants, if seriously disputing these facts, would have themselves made efforts to produce the contractor who was working for them to substantiate the plea which was raised before the authority as also the learned Single Judge and before us as well. We thus do not find any infirmity in the findings recorded by the learned Single Judge and decline interference.

Dismissed.

(MAHESH GROVER)
JUDGE

09.01.2017
dss

(SHEKHER DHAWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No