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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-14210-2013 [O&M]

Date of Decision : July 25, 2018

Chandigarh Sports Council

.... Petitioner.

Versus

Board of Trustees, Employees' Provident fund Organization
and another

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. K.K.Gupta, Advocate
for the petitioner.

Mr. Manav Bajaj, Advocate,
for Mr. Sumeet Goel, Advocate,
for the respondents.

SHEKHER DHAWAN, J.

Present writ petition under Article 226/227 of the Constitution of India is for issuance of a writ in the nature of certiorari for quashing order dated 9.12.2011 (Annexure P/8) passed under Section 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short, "**the Act**"), order dated 25.03.2013 (Annexure P/14) passed under Section 7-B of the Act and order dated 10.05.2013 (Annexure P/15) passed under Sections 14-B and 7-Q of the Act, whereby the alleged liability of EPF of Lake Club has been recovered from the bank account of the Lake Sports Complex which is a unit of the Petitioner in a totally illegal and arbitrary manner.

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2. The contention raised by learned counsel for the petitioner is that the Lake Club would not be covered under the provisions of the Act being a unit of the Sports Department and its employees being subject to General Provident Fund and as such, sought direction to the respondents to refund the amount illegally recovered without any notice or opportunity of hearing together with interest 18% per annum.

3. Learned counsel for the petitioner further contended that the petitioner is a Society registered under the Societies Registration Act, 1860. In the joint State of Punjab, Sports Department had set-up a Sports Centre at the Lake Complex in 1960. At the time of re-organization of the State of Punjab, the said Sports Centre was allocated to the Sports Department of Union Territory, Chandigarh and was renamed as Lake Club and the employees of the Club were also employees of the Sports Department, Union Territory, Chandigarh. In the complex, where Lake Club Chandigarh is situated, office of Chandigarh Sports Council i.e., the present petitioner, is also functioning. On 11.8.1997, Chandigarh Administration ordered to transfer the management and administration of the Lake Club, Chandigarh to the Chandigarh Sports Council on the ground that the staff of the Lake Club would remain the employees of the Sports Department, U.T. Chandigarh and draw their salaries from the Government head. That way, only the management and administration of the Club was put under the control of Chandigarh Sports Council. Copy of the said order dated 11.08.1997, issued on 20.08.1997, is at Annexure P/2 on the file.

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4. Learned counsel for the petitioner also contended that the matter in controversy was before this Court in CWP-1598-2009, which was decided on 23.01.2012 (Annexure P/16) and the Hon`ble Co-ordinate Bench passed the following order :-

“ In view of the fact that employees of Lake Club are the employees of UT Chandigarh, therefore, merely because the management was transferred to the petitioner, would not give any jurisdiction to respondents No.1 and 2 to recover the alleged ESI contribution from the petitioner. The impugned order cannot be sustained in the eyes of law and is accordingly set-aside. The petition is allowed. The amount already recovered, shall be released to the petitioner alongwith interest @ 10% per annum within 90 days.”

5. The matter was before Hon`ble Division Bench of this Court in LPA No. 1178 of 2012 which was decided on 20.11.2013 and the Hon`ble Division Bench observed as under:-

"8. We put a query to learned counsel for the appellant as to whether the competent authority under the said Act was of the view that the employees of U.T. Administration, Chandigarh en masse were not getting benefits equal or superior to the one under the said Act and that all such employees of U.T. Administration were entitled to the benefits of the provisions of the said Act. If it was not so how could there be a distinguishing feature qua some of the employees who just happen to be working at the Lake Club managed by respondent No.1 but maintaining the status as employees of U.T. Administration. There has been no satisfactory answer to this query.

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9. The employees working at the Lake Club are thus getting all the benefits and privileges as are admissible to all the employees of U.T. Administration, Chandigarh and really speaking the proviso has to come into play. It, thus, seems that the present appeal has been really a mindless exercise even after the controversy had been set at rest by the learned Single Judge.

10. We thus find no merit in the appeal and dismiss the same.

11. We would have imposed costs but for the fact that it would only be going from one pocket of the government to the other."

6. Learned counsel for the respondents could not take any contrary plea to the view taken by this Court in the above mentioned decisions.

7. In view of the above, the present writ petition is accepted. The impugned orders dated 9.12.2011 (Annexure P/8); dated 25.03.2013 (Annexure P/14); and order dated 10.05.2013 (Annexure P/15) are set-aside. The amount already recovered shall be released to the petitioner alongwith interest at the rate of 9% per annum within a period of 90 days.

8. The writ petition stands allowed in the above terms.

(SHEKHER DHAWAN)
JUDGE

July 25, 2018.
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes