

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

CWP-8299-2012 (O&M)

Date of Decision:01.02.2018

Assistant Provident Fund Commissioner

... Petitioner

Vs.

M/s GGS Tung Memorial Public School and another

... Respondents

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

Present : Mr. Rajesh Hooda, Advocate for the petitioner.

Mr. Anil Chawla, Advocate for respondent No.1.

P.B. BAJANTHRI J. (Oral)

On 15.11.2016, following order was passed:

“Crux of the matter is whether respondent No.1-M/s GGS Tung Memorial Public School Falls under EPF Act or not. The EPF Department during their inspection on 01.09.2003 have obtained list of employees consisting of 20 in number. The same was signed by the Principal of the respondent education institution. Under 7-A proceedings, the respondent education institution failed to produce any material to show that one Sh. Varinder Kumar was contractor/lease holder of school canteen. In order to exclude his name from the list of 20 employees, learned counsel for the respondents submitted that on yearly basis the school canteen is being leased out to a contractor to run the canteen. If it is so, he is directed to produce necessary material like lease agreement or any payment received from Varinder Kumar towards running school canteen on the next date of hearing.”

Pursuant to the aforesaid order, respondent-M/s GGS Tung Memorial Public School has not produced or placed on record any agreement with the contractor. On the other hand, learned counsel for respondent No.1 heavily relied on the affidavit submitted by Virender

Singh the person who is stated to be a contractor. It is to be noted that Principal of the respondent-Educational Institute has signed list of employees consisting of 20 employees during the inspection by the EPF department. One of the employee-person is Virender Singh. Therefore, it is evident that there were 20 employees on the date of inspection. In order to over-come inspection report and admission of the Principal of the respondent-Educational Institute, affidavit filed by Mandeet Kaur and Maninder Singh submitted by Virender Singh cannot be taken into consideration and appreciable. It is only an after thought. Therefore, order dated 2.5.2011 (Annexure P-4) passed by the Appellate Tribunal is set aside. Warrant order dated 3.2.2006 is restored. Respondents are hereby directed to remit the determined EPF amount within a period of four months from today. Failing which petitioners were permitted to take necessary action in accordance with law.

Petition stands allowed accordingly.

01.02.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**