

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-14530-2017

Date of decision: 02.03.2020

Central Board of Trustees through Assistant Provident Fund
Commissioner Chandigarh

.....Petitioner

versus

M/s Morinda Co-operative Sugar Mills Morinda and another

....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

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

Mr. Vikas Singh, Advocate
for respondent No.1.

GIRISH AGNIHOTRI, J. (Oral)

1. The present writ petition has been filed by the Central Board of Trustees through Assistant Provident Fund Commissioner,, Sector-17, Chandigarh *inter alia* with the prayer to quash the order dated 10.05.2016 (Annexure P-4), passed by the Employees' Provident Fund Appellate Tribunal, New Delhi.

2. Learned counsel for the petitioner submits that vide order dated 10.05.2016, Learned Appellate Tribunal has reduced the damages to 50%. Learned counsel further submits that while reducing the said damages, reliance has been placed upon the judgment titled as ***Roma Henny Security Services Pvt. Ltd. vs. Central Board of Trustees, EPF Organisation through Assistant P.F. Commissioner, Delhi (North)***, passed in ***WP(C)***

No.831 of 2012, decided on *12.09.2012*, by the Full Bench of Delhi High Court.

3. It is the case of the petitioner that the Presiding Officer in the impugned order herein, had placed reliance upon the aforementioned judgment to pass the impugned order.

4. Learned counsel for the petitioner further submits that on 27.02.2019, the Hon'ble Supreme Court of India in Civil Appeal No.6592 of 2014, has accepted the appeal, set aside the judgment and order of the High Court and remitted the case to the High Court to consider the effect on Clause 32-A and also to consider various questions afresh and decide the case in accordance with law.

5. Learned counsel for respondent No.1 submits that the factual position that the Hon'ble Supreme Court of India has passed the judgment dated 27.02.2019, cannot be disputed. He however submits that the respondent had already deposited the amount in question in pursuance to the order dated 10.05.2016 (Annexure P-4), impugned in the present writ petition.

6. This Court finds merit in the submissions made by counsel for the petitioner. Since, it is evident from perusal of the order dated 10.05.2016, the reliance has been placed upon the Full Bench decision as aforementioned, which has been set aside by the Hon'ble Supreme Court of India, this Court deems it appropriate to remand the matter back to the Appellate Tribunal (which during pendency of the present writ petition is re-constituted as Central Government Industrial Tribunal-cum-Labour

Court, Chandigarh).

7. The writ petition is accordingly **disposed of** with the following directions:-

- (i) *The Central Government Industrial Tribunal-cum-Labour Court, Chandigarh, is directed to decide the matter afresh in accordance with law as expeditiously as possible preferably within one year from the date of receipt of certified copy of the order.*
- (ii) *The amount so deposited by respondent No.1 shall continue to be kept in the same manner and shall abide by further orders that would be passed by the Competent Authority.*
- (iii) *The issue taken up by respondent No.1 before this Court that after the impugned order stands complied with, inasmuch as the amount stands deposited, the further challenge to the same is not maintainable, is left open to be either agitated before the Appellate Tribunal or at an appropriate stage, if deemed appropriate.*

(GIRISH AGNIHOTRI)
JUDGE

02.03.2020

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Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No