

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
217 (PROCEEDINGS THROUGH V.C.)

Date of decision:06.09.2021

LPA-676-2020 &
CM-1846-LPA-2020 &
CM-1350-LPA-2021 &
CM-1154-LPA-2021 &
CM-1155-LPA-2021

FOOD CORPORATION OF INDIA

...APPELLANT

V/S

BOARD OF TRUSTEES AND ORS

...RESPONDENTS

LPA-675-2020 &
CM-1143-LPA-2021 &
CM-1349-LPA-2021 &
CM-1845-LPA-2020

FOOD CORPORATION OF INDIA AND ANR

...APPELLANTS

V/S

RANBIR SINGH PUNIA AND COMPANY AND ORS

...RESPONDENTS

***CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA***

Present: Mr. Chetan Mittal, Sr. Advocate,
with Mr. Anurag Jain, Advocate,
and Ms. Shifali Goyal, Advocate,
for the appellants in both cases.

Mr. Mohan Jain, Sr. Advocate,
with Mr. Rakesh Roy, Advocate,
for respondents No. 1 to 17 in LPA No. 675-2020
and for respondents No. 3 to 19 in LPA No. 676-2020.

Mr. Namit Kumar, Advocate,
for respondent No. 2 in LPA No. 676-2020.

Mr. Rajesh Hooda, Advocate,
for respondent No. 18 in LPA No. 675-2020 and
for respondent No. 1 in LPA No. 676-2020.

AUGUSTINE GEORGE MASIH, J.(ORAL)

CM-1154-LPA-2021 in LPA No. 676-2020
CM-1143-LPA-2021 in LPA No. 675-2020

In the light of the fact that the appeals are being taken up for
consideration and disposal, no directions are being issued, as prayed for, in

these applications. The same, therefore, stand disposed of.

CM-1155-LPA-2021 in LPA No. 676-2020

C.M. is allowed subject to just exceptions. Additional affidavit dated 11.05.2021 is taken on record.

LPA Nos. 676 and 675 of 2020

By this order, we propose to decide two Letter Patent Appeals i.e. LPA Nos. 676 of 2020 and 675 of 2020 which have been preferred by the appellant-Food Corporation of India against the order dated 13.03.2020 passed by the learned Single Judge disposing of CWP No. 12998 of 2018 titled as Food Corporation of India vs. Board of Trustees, Employees' Provident Fund Organisation of India and others and CWP No. 7208 of 2016 titled as Ranbir Singh Punia and Company and others vs. Food Corporation of India and others.

2. Learned senior counsel for the appellants contends that CWP No. 12998 of 2018 was preferred by the Food Corporation of India challenging the order dated 18.10.2017 (Annexure P-3) passed by the Regional Provident Fund Commissioner under Section 7A of The Employees' Provident Fund and Misc. Provisions Act, 1952 (hereinafter referred to as 'the Act, 1952'), wherein it was ordered that the FCI has to be treated as the Principal Employer qua the workers engaged by the Katcha Aarthias and have been directed to deposit the contribution along with statutory returns, failing which, enquiry under Section 7A of the Act, 1952 has been ordered for assessment of dues in respect of such workers w.e.f. 01.04.2015 without even establishing the names of the beneficiaries in whose account PPF contribution is to be deposited.

The said order was challenged by the appellants on various

grounds but the learned Single Judge has not proceeded to deal with any of the same and has simply disposed of the writ petitions on the basis of the statement made by the counsel for the Employees Provident Fund Commissioner and the counsel for the petitioners in CWP No. 7208 of 2016. He pointed out that CWP No. 7208 of 2016 was preferred by the commission agents of paddy who were supplying paddy to the Food Corporation of India. They had prayed in the writ petition that they be not pressurised by the Food Corporation of India for getting them registered under the 1952 Act by way of withholding the payments and a direction be issued to release their payments for the bills which have been raised by them after deducting the provident fund, if found deductible from the bills of the petitioners. These prayers of the commission agents were opposed by the appellant-Food Corporation of India.

3. Learned senior counsel for the appellants contends that the learned Single Judge has not touched the merits of the case nor has any of the pleas, which have been pleaded or raised in the writ petition, been dealt with while disposing of the writ petitions by directing the appellant to participate in the proceedings under Section 7-A(1)(b) which are to be concluded or initiated by the Employees Provident Fund Commissioner. Food Corporation of India has also been directed to release the amount of bills raised by the commission agents subject to their furnishing an undertaking that the amount, so released, be deducted in future payments to be made by the Food Corporation of India to them. This, the learned senior counsel for the appellants states, is not sustainable as the appellants, through the writ petition preferred by them i.e. CWP No. 12998 of 2018, had challenged the jurisdiction and initiation of the proceedings by the

Employees Provident Fund Commissioner against the appellants leading to the passing of the impugned order dated 18.10.2017. He has referred to the aspects with regard to the jurisdiction, the definition of the various terms to highlight that the liability would not be that of the appellants. Prayer has, thus, been made for setting aside the impugned judgment passed by the learned Single Judge dated 13.03.2020 in the writ petitions referred to above.

4. Learned senior counsel for the commission agents submits that the order, which has been passed by the learned Single Judge, safeguards the interest of the Food Corporation of India as the amount, which has been ordered to be released to the commission agents, is secured in the light of the undertaking which is required to be submitted by the commission agents. He, however, could not point out from the order, which has been passed by the learned Single Judge, relating to the adjudication of the dispute/claim of any of the parties.

5. Learned counsel for the Provident Fund Commissioner has submitted that the matter requires to be adjudicated upon by the Commissioner himself and the matter be remanded back to the competent authority for consideration so that the liability can be determined of the concerned as per the provisions of the Employees' Provident Fund and Misc. Provisions Act, 1952.

6. We have considered the submissions made by the learned counsel for the parties and with their assistance, have gone through the pleadings as well as the impugned order passed by the learned Single Judge which is under challenge.

7. We do not intend to refer to in detail to the various provisions,

on which reliance has been made by the learned senior counsel for the appellants while attacking the order dated 18.10.2017 (Annexure P-3) passed by the Regional Provident Fund Commissioner nor do we intend to go into the detailed stand of the respondents in the light of the fact that we are of the considered view that the judgment passed by the learned Single Judge does not deal with any of the aspects raised by the parties while challenging the impugned orders. The directions also, which have been issued by the learned Single Judge to the appellants, appear to be one sided without there being any consent of the counsel for the appellant or justification for issuance of such directions especially in the light of the fact that the basic order dated 18.10.2017 (Annexure P-3) in CWP No. 12998 of 2018 had been challenged by the appellant-Corporation. We are of the opinion that the matter requires to be remanded back to the learned Single Judge for adjudication on merits.

8. In view of the above, order dated 13.03.2020 passed by the learned Single Judge in CWP Nos. 12998 of 2018 and 7208 of 2016 is, hereby, set aside with a request to the learned Single Judge to decide the matter on merits.

9. Parties are directed to appear before the learned Single Judge on 22.09.2021.

10. Registry is directed to list the writ petitions on the said date as per roster.

11. Appeals stand disposed of accordingly.

CM-1350-LPA-2021 in LPA No. 676-2020

CM-1349-LPA-2021 in LPA No. 675-2020

In the light of the disposal of the main appeals, these applications have been rendered infructuous and the same are disposed of as such.

CM-1846-LPA-2020 in LPA No. 676-2020

CM-1845-LPA-2020 in LPA No. 675-2020

In the light of the disposal of the main appeals, these applications have been rendered infructuous and the same are disposed of as such.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

**(ASHOK KUMAR VERMA)
JUDGE**

September 06, 2021

pj

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No