

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.5221/2009

1. Regional Provident Fund Commissioner,
Office of the Regional Provident Fund
Commissioner, 132A, Ridge Road,
Tukdoji Maharaj Chowk, Nagpur

1A. Central Board of Trustees, Body
Corporate Constituted under Employees
Provident Fund and Miscellaneous
Provisions Act Bhavishya Nidhi Bhavan,
14 Bhikaji Kama Palace, New Delhi.

2. Assistant Provident Fund Commissioner,
Office of the Regional Provident Fund
Commissioner, 132-A, Ridge Road,
Tukdoji Maharaj Chowk, Nagpur.

...PETITIONERS

---VERSUS---

Link House Commercial Limited,
through its Authorized Representative
Shri Prashant Deshpande, Poonam Plaza,
Palm Road, Civil Lines, Nagpur

...RESPONDENT

Mr. H. N. Verma, Advocate for petitioners.

CORAM:- AMIT BORKAR, J.

DATED :- 11.07.2022

ORAL JUDGMENT

1. Rule. Rule is made returnable forthwith. Heard finally
by consent of learned counsel for the parties.

2. By this petition under Articles 226 and 227 of the Constitution of India, the petitioners are challenging the order dated 17.08.2009 passed by the appellate tribunal in Appeal No. 108(9)/2009. According to the petitioners, the appeal raised challenge to the order passed under Sections 7-A and 7-B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 and also to the rejection of the Review Application filed by the respondent. He placed reliance upon judgment of this Court in *Central Board of Trustees and anr..vs.Holy Faith Education Society, Hinganghat, Writ Petition No.3398/2017*, to urge that the appeal challenging rejection of application for review of order under Section 7-A is not maintainable. According to him, order under Section 7-A cannot be challenged by way of an appeal.

3. I have carefully considered the submission made on behalf of the parties and also considered the unreported judgment in *Central Board of Trustees and anr. (supra)*. On perusal of the scheme of the Act, it is clear that the person aggrieved by the order under Section 7-A has no right of appeal under Section 7-I of the said Act. The scheme of Sections 7-A and 7-B does not permit a person, whose application for review of order under Section 7-A has been rejected, to challenge it by way of an appeal. This Court

in *Central Board of Trustees and anr. (supra)*, has held that the order under Section 7-B rejecting the application for review of order passed under Section 7-A is not appealable under Section 7-I of the said Act.

4. In that view of the matter, the appellate authority was not justified in entertaining the appeal of respondent. The order passed in the said appeal cannot be sustained. Hence Rule is made absolute in terms of prayer clause (I), which reads thus:

“i) Issue a writ, writ order or direction thereby quashing and setting aside the impugned order dated 17/8/2009, passed by the Appellate Tribunal in Appeal No.ATA-108(9)/2009, which is at Annexure-A, being illegal and contrary to law.”

No order as to costs.

JUDGE

kahale