

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

WRIT PETITION (WP) NO. 5599/2018

The Central Board of Trustees,
Employees Provident Fund Organization,
Having Office at Bhavishya Nidhi Bhagwan,
Bhikaji Cama Place, New-Delhi,
Through The Regional Provident Fund
Commissioner, Employees Provident
Fund Organization,
Sub-Regional Office, Akola.

.... PETITIONER

// VERSUS //

M/s. Magasvargiya Education Society,
Through its president
Gujri Road, Pusad
District Yavatmal

.... RESPONDENT

Mr. H.N. Verma, Advocate for the petitioner
Ms. Shaad F. Mirza, Advocate for the respondent

CORAM : A.S. KILOR, J.

DATED : 26/06/2023

ORAL JUDGMENT :

Heard the learned counsel for the parties.

2. **Rule.** Rule made returnable forthwith.

3. By this petition, under Articles 226 and 227 of the Constitution of India, the petitioner is challenging order dated 30.11.2016, passed by the Employees Provident Fund Appellate Tribunal, New Delhi in Appeal No. ATA No.1161(9)/2015.

4. Perusal of the impugned order shows that the subject matter of challenge was the order passed under sections 14-B and 7-Q of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 ("Act" for short).

5. As regards provision 14-B of the Act, it appears that the learned Tribunal has placed reliance on the judgment of the Delhi High Court in the case of *System & Stamping and Anr. Vs. Employees' Provident Fund Appellate Tribunal and Ors.* reported¹ in *(2008)2 LLJ 939*.

6. The learned Advocate for the petitioner invited my attention to the judgment delivered by the Hon'ble Apex Court in Civil Appeal No. 6592/2014 in the case of *Central Board of Trustees Vs. Roma Henny Security Services Pvt. Ltd.* The Hon'ble Apex Court while holding that the High Court of Delhi has failed to consider clause 32-A of the Employees Provident Fund Scheme, 1952 had remanded the proceeding back to the High Court. Therefore, it is the submission of the learned Advocate for the petitioner that the basis of order impugned is no longer in existence, and therefore, the learned Tribunal needs to consider the issue of payment of damages under section 14-B of the Act.

7. Undisputedly, the judgment in the case of ***System & Stamping and Anr. Vs. Employees' Provident Fund Appellate Tribunal and Ors*** (supra) has been set aside by the Hon'ble Apex Court, and therefore, it is necessary to the learned Tribunal to reconsider the issue of payment of damages under section 14-B afresh. In that view of the matter, the petition succeeds.

8. The impugned order dated 30.11.2016, passed by the Employees Provident Fund Appellate Tribunal, New Delhi in Appeal No. ATA No.1161(9)/2015 is quashed and set aside.

9. The proceeding is remanded back to the learned Central Government Industrial Tribunal, Nagpur for reconsideration on payment of damages under section 14-B of the Act.

10. Rule is made absolute in above terms.

(JUDGE)