

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

**CM-6164-CWP-2023 in/and
CWP-6140-2023 (O&M)**

Date of decision : 20.04.2023

**Sri Guru Gobind Singh College
Chandigarh**

...Petitioner

Vs.

**The Presiding Officer-cum-Appellate Authority
under the Employees Provident Fund
Act, 1952 and others**

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Respondent No.4 in person.

**Mr. Pawan Kumar Mutneja, Sr.Advocate with
Ms. Suverna Mutneja, Advocate for the petitioner.**

MANOJ BAJAJ, J.

CM-6164-CWP-2023

This application is for pre-poning the date of hearing of the main petition to an early date, which is fixed for 24.08.2023.

Notice in the application.

At this stage, Ms. Suverna Mutneja, Advocate accepts notice on behalf of petitioner and does not oppose the prayer.

For the reasons mentioned in the application, same is allowed and the date of hearing of the main petition is pre-poned to today.

Main case

Petitioner has filed this writ petition under Article 226

Constitution of India for issuance of a writ in the nature of certiorari seeking

quashing of the decision dated 05.12.2022 (Annexure P-12) passed by respondent No.1 whereby appeal preferred by the private respondents under Section 7-L(2) EPF Act, 1952 against the order dated 29.07.2021 (Annexure P-11) passed by respondent No.2 was allowed, in the absence of the petitioner and matter was remanded back to respondent No.2 for reconsideration. Further, challenge is to the order dated 15.03.2023 (Annexure P-14), whereby petitioner's review application was also dismissed by respondent No.1.

On 23.03.2023, the following order was passed:-

“Learned Senior counsel inter alia contends that the proceedings under Section 7-A of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 was decided in favour of the petitioner through decision dated 29.07.2021 (Annexure P-11) and aggrieved against it, an appeal was preferred by the employees wherein through the ex parte decision, the order dated 29.07.2021 has been set aside. Learned Senior counsel further submits that on the first date of appearance on 03.11.2021 before the Appellate Authority, there was no Presiding Officer and it was intimated that as and when the Appellate Authority becomes functional, the notice would be sent, but after a period of 1½ years, appeal has been accepted without hearing the petitioner.

Notice of motion for 24.08.2023.

Meanwhile, the operation of the impugned order dated 05.12.2022 (Annexure P-12) shall remain stayed.”

Today, respondent No.4 has appeared in person, who has also placed on record the reply to the writ petition on behalf of respondent Nos.4, 6 to 12 and 14 to 17 and 19.

During the course of hearing, respondent No.4 refers to the reply dated 11.04.2023 and submitted that he is appearing in a representative capacity for private respondents, except respondent Nos.5, 13 and 18. He

though controverted the stand of the petitioner noticed in the order dated 23.03.2023, but fairly states that the appeal preferred by the employees was decided without hearing the petitioner, and raises no objection, if, the case is sent back before the appellate authority for deciding it afresh.

At this stage, Mr. Mutneja, learned senior counsel also states that the petitioner would be satisfied in case the impugned order is set aside and the petitioner is allowed to contest the appeal on merits.

Resultantly, considering the above stand of the rival parties, the impugned order dated 05.12.2022 (Annexure P-12) passed by appellate authority is set aside and it is ordered that the appellate authority shall decide the appeal afresh after hearing the both sides.

The parties are directed to appear before the appellate authority on 11.05.2023.

(MANOJ BAJAJ)
JUDGE

20.04.2023

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Whether speaking/reasoned :
Whether Reportable :

Yes	No
Yes	No