

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2551 OF 2024

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Airports Authority of India	... Petitioner
V/s.	
Regional Provident Fund Commissioner – II, Mumbai	... Respondent

Ms. Shilpa Kapil a/w Mr. Chidanand Kapil, for
Petitioner.

Mrs. Ranjena Todankar, for Respondent.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 29, 2024

P.C.:

1. Several writ petitions have been filed by the aggrieved persons either under the provisions of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 and under the Payment of Gratuity Act, 1972. In both the cases, the Appellate Authorities are not available.

2. Learned ASG appeared in other writ petitions, he had assured this Court that steps will be taken either for the appointment of Presiding Officer or for handing over charge. It is informed that the charge of the Central Government Industrial

Tribunal (CGIT) – I has been assigned to the Presiding Officer Kolkata, who is available once in two months.

3. Considering the statutory provisions under the said Act, the Appellate Authority has discretion to reduce amount of statutory deposit for the said purpose. It is necessary that merits of the matter are required to be considered by the Appellate Authority. The said job is essentially of the First Appellate Authority before whom the appeal is open to challenge on facts and law. Such scrutiny cannot be done under the writ jurisdiction. It is, therefore, necessary that the charge of the Appellate Authority should be handed over to the other Tribunal as early as possible. It is expected that the appointing authority shall consider the position and shall take immediate decision on the said issue.

4. For the purpose of enabling the Industrial Court to take decision of appointment or assigning of charge, stand over to **7 March 2023**.

5. In the meantime, according to the petitioner, immediately after the Code was assigned the petitioner deposited amount of provident fund dues with the authority under the Act. It is also evident that writ petitions were filed before this Court for allotment of Code under the Act so that the petitioner would deposit the amount of provident fund dues. It appears that there is dispute between the petitioner and the employees in relation to their status as to whether they are employees of the contractor or not.

6. On overall view of the matter, the petitioner shall deposit 50% dues under Section 7Q of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 as directed by the Authorities under the said Act within two weeks from today.
7. Stand over to **7 March 2024**.
8. Till next, there shall be ad-interim relief in terms of prayer clause (c).

(AMIT BORKAR, J.)