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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-11553-2000 (O&M)
Date of Decision:09.08.2024

REGIONAL PROVIDENT FUND COMMISSIONER

..... Petitioner

Versus

THE EMPLOYEES PROVIDENT FUND APPELLATE
TRIBUNAL AND ANR.

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Sandeep Goyal, Advocate
for the petitioner.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 16.12.1999 (Annexure P-4) whereby Appellate Authority has allowed appeal of the respondent.

2. The petitioner under Section 7A of Employee's Provident Fund & Misc. Provisions Act, 1952 (for short 'Act') held that respondent is covered under the said Act w.e.f. August' 1996 because they had employed 23 persons. The respondent claimed that total strength of employees reached to 20 on 01.04.1997. Rickshaw puller and cart puller were not their employees. The petitioner rejected contention of respondent and assessed their liability.

3. The respondent herein preferred an appeal before Appellate Authority which came to be allowed vide order dated 16.12.1999. The relevant extracts of order dated 16.12.1999 are reproduced as below:



“Since it is not said that Tanga and rickshaw is owned by the school of the appellant the rickshawala and tangawala cannot be treated the employees of the appellant as they are doing work on hire and not on wages. Three is also usual that sweepers are engaged on customary wages and in that case one sweeper doing work for many persons and that is not treated as an employee in an establishment. The appellant has started depositing the provident fund contribution from 1st April, 1997 on their own. I see no dishonest statement on the part of the appellant and after excluding these five persons the strength of the employment come to 18, therefore, the impugned order is liable to be modified.

Order

The appeal is allowed. The impugned order is modified and it is held that appellant’s establishment is coverable from 1st April, 1997 and not from before. The amount if any recoverable under the impugned order for the period before 01.04.1997 should be adjusted towards future liability of the appellant.”

4. A very small amount is involved and a period of more than two decades has passed away. This Court does not find any jurisdictional error or factual infirmity warranting interference.
5. Dismissed.
6. Pending misc. application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

09.08.2024
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No