

CWP-26550-2014 (O&M) -1-
& connected cases

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

233 (04 cases) CWP-26550-2014 (O&M)
Date of Decision :04.10.2024

Rakesh Trikha and others ...Petitioners

Versus

State of Punjab and others ...Respondents

CWP-21173-2015 (O&M)

Employees Provident Fund Organization
and another ...Petitioners

Versus

S.M.D.R.S.D. College and another ...Respondents

CWP-21152-2015 (O&M)

Employees Provident Fund Organization
and another ...Petitioners

Versus

S.M.D.R.S.D. College and another ...Respondents

CWP-16049-2012 (O&M)

S.M.D.R.S.D. College ...Petitioner

Versus

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**Regional Provident Fund Commissioner
and others**

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sachin Mittal, Advocate with Mr. Parth Sharma, Advocate
for the petitioner
om CWP-26554-2014.

Mr. Sanjay Tangri, Advocate for respondent-EPFO.

Mr. P.K. Mutneja, Sr. Advocate with
Mr. Vishal Bhatia, Advocate for respondent-SMDRSD College.

Mr. Vishal Sodhi, Advocate for applicant in
CM-1361-CWP-2019 & CM-18259-60-CWP-2019
(joined through Video conferencing)

Ms. Ekjot Sandhu, Advocate for respondent No.4
in CWP-26550-2014.

Mr. Rajesh Hooda, Advocate for respondent No.4
in CWP-16049-2012.

Mr. Manipal Singh Atwal, AAG, Punjab.

* * *

Harsimran Singh Sethi, J. (Oral)

By this common order, above mentioned writ petitions are
being disposed of as all the writ petitions involve the same question of law
on similar facts.

In the present petitions, challenge is to order dated 26.11.2014
(Annexure P/11) passed by the Employees Provident Fund Appellate
Tribunal, New Delhi, by which, the assessment of the payment of provident
fund by the SMDRSD-College was set aside on the grounds that order of
assessment is not a speaking order and certain aspects raised by the College
in defence have not been looked into while assessing the liability of the
College. The said order is under challenge at the hands of the employees,



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who were the beneficiary of the assessment by the Provident Fund authority.

From the facts, which have been mentioned in the petitions, it transpires that the competent authority under the Employees Provident Fund and Miscellaneous Provisions, Act, 1952 (in short, '1952 Act'), an assessment was done with regard to the liability of payment of provident fund to the employees, who were working with the SMDRSD-College. A direction was issued to deposit certain amount, which was due to the employees, who were working with the College, which assessment was impugned by the College before the Employees Provident Fund Appellate Tribunal, New Delhi.

After assessing the arguments raised by the college that certain objections/defence taken by the College to deny the liability, which were put forward before the Assistant Provident Fund Commissioner, Amritsar have been ignored while the assessment has been made and that too by passing totally cryptic and non-speaking order.

The Employees Provident Fund Appellate Tribunal, New Delhi, accepted the assertions of the College with regard to the fact that certain aspects, which were being raised by the College authorities to deny their liability have not been taken into account by the assessment officer and the same has not been discussed while passing order of assessment against the College. The order of the assessment was accordingly set aside . Though, the Tribunal set aside the order of assessment but no order was passed to make fresh assessment in accordance with law after taking into account the objections being raised by the College authorities to the said order of assessment, which is within the jurisdiction vested with the Assistant



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Provident Fund Commissioner qua the payment of provident fund to the employees of the SMDRSD-College.

Learned counsel for the parties have agreed before this Court that the assessing authority i.e. Assistant provident Fund Commissioner, Amritsar be directed to reassess the liability of the SMDRSD-College for payment of provident fund to its employees by taking into consideration all the objections, which are being raised by the college authorities as well as by taking into consideration the assertions raised by the employees of the College concerned with regard to their entitlement of the provident fund at the hands of the SMDRSD-College.

Learned counsel appearing on behalf of for the Assistant Provident Fund Commissioner, Amritsar submits that they have no objection in passing a fresh assessment order by taking into consideration all the objections of the College concerned and the assertions of the employees to claim the benefit as admissible to them under the 1952 Act.

Once, the parties are agreeable before this Court that a fresh assessment should be done by the Assistant Provident Fund Commissioner, Amritsar by passing a fresh order of assessment after taking into consideration all the pleas being raised by the College authorities as well as by the employees concerned, who are claiming benefit of provident fund from the college concerned, it is directed that an appropriate order of assessment be passed by the competent authority under the 1952 Act within a period of 08 weeks from the date of receipt of copy of this order.

It may be noticed that the College as well as employees concerned will have the liberty to submit their written arguments to the

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Assistant Provident Fund Commissioner, Amritsar for his/her consideration so as to pass an appropriate order of assessment.

It may be further noticed that the authorities have already deposited the amount, which was already assessed and the same is lying with the Provident Fund Authorities even as of now, keeping in view the interim order passed by the Coordinate Bench of this Court on 12.01.2015.

In case, the Provident Fund authorities again hold the liability of the College to grant the provident Fund to its employees, the authorities under the Provident Fund Commissioner with whom the amount is already deposited will have the jurisdiction to disburse the amount to the entitled employees. In case, any further amount is to be paid by the College authorities, the same be also mentioned in the order itself to be paid to the employees in a time bound manner.

It may be noticed that in case, the liability of the College is reassessed and after the assessment, it is seen that the college had not paid due amount and for which, the jurisdiction exists with the Provident Fund Commissioner, Amritsar to impose any penalty/cost/damages, the Assistant Provident Fund Commissioner, Amritsar will also have the jurisdiction to impose the same but after giving due reasons for the same.

Present petitions are disposed of in above terms.

Civil miscellaneous application pending, if any is also disposed of.

A photocopy of this order be placed on the file of connected cases.

October 04, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No