**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

115 **CWP-17615-2024**
Date of decision: 02.09.2024

PROF. SARABJEET SINGH BHATTI ....PETITIONER

Vs.

THE PRESIDING OFFICER CUM APPELLATE AUTHORITY AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Varlin Garg, Advocate
for the petitioner.

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JAGMOHAN BANSAL, J (ORAL)

1. Mr. Varlin Garg, Advocate has put in appearance on behalf of the petitioner and filed Power of Attorney, which is taken on record. Registry is directed to tag the same at an appropriate place.

2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 29.07.2021 (Annexure P-8) passed by Assistant Provident Fund Commissioner and order dated 14.02.2024 (Annexure P-11) passed by Appellate Authority constituted under Employees Provident Fund Scheme and Miscellaneous Pensions Act, 1952.

3. The petitioner is a former employe of Sri Guru Gobind Singh College, Sector-26, Chandigarh. He retired on 31.01.2014 as Associate Professor. As per provisions of Employees Provident Fund and Miscellaneous Provisions Act, 1952 read with pension scheme made thereunder, an employer was supposed to contribute 12% of salary. Prior to 01.09.2014 there was ceiling

of Rs. 6500/- which was extended w.e.f. 01.09.2014 to Rs. 15,000/-. The employer and employee with consent of each other could opt for contribution beyond the ceiling limit of Rs. 6500/-. Neither employer nor employee was bound to contribute beyond ceiling of Rs. 6500/-.

4. In the case in hand, ceiling of Rs. 6500/- was applicable, thus, employer was supposed to contribute Rs. 780/- towards Provident Fund i.e. 12% of Rs. 6500/-. The employer contributed much higher amount i.e. Rs. 7,992/-.

5. The petitioner claims that actual salary of petitioner in different months was more than salary considered by respondent for the purpose of contribution to Provident Fund. The employer calculated 10% of wrongly assessed salary. Resultantly, lower amount was contributed towards provident fund.

6. I have heard counsels for the parties and with their able assistance perused the record.

7. From the perusal of record, it is evident that employer contributed 10% of a particular amount which was less than actual salary of the petitioner e.g. in the month of May' 2011, actual salary of petitioner was Rs.83,231/- and respondents calculated 12% of Rs. 66,600/- i.e. 7,922/-. The employer was duty bound to contribute Rs. 780/- whereas he contributed Rs.7,992/-. The employer was not bound to contribute Rs.7,992/- and he had statutory obligation to contribute Rs. 780/-. The Appellate Authority while passing impugned order has considered statutory liability of the employer, actual amount contributed and salary of the petitioner and thereafter concluded that the employer had actually contributed more than its statutory liability. Thus, no action can be initiated against the employer. With respect to filing of returns, the Appellate Authority has ordered to take action.

8. This Court, considering the statutory provision and actual amount of contribution which is much more than the statutory liability, does not find any infirmity in the impugned order and substance in the contention of the petitioner. Accordingly, the petition is hereby dismissed.

02.09.2024 **[JAGMOHAN BANSAL]**
manoj **JUDGE**

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