BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.06.2026

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.21084 of 2022

The Regional Provident Fund Commissioner II
Employees Provident Fund Organisation
Regional Office No.1,
Lady Doak College Road,
Chokkikulam
Madurai. ... Petitioner(s)

vs.

M/s. Hindustan Coca-Cola
Marketing Company Pvt Ltd,
Visalakshi Nagar (Po),
Vilangudi,
Madurai 625 018. ... Respondent(s)

PRAYER : Writ Petition filed under Article 226 of Constitution of India, praying this Court to issue of Writ of Certiorari calling for the records pertaining to the impugned order of the C.G.I.T, cum EPF Appellate Tribunal, Chennai in EPFA 447/2017 (ATA 970(13)/14 dated 22.10.2021 and quash the same by confirming the order passed by the Assistant Provident Fund Commissioner, Madurai under Sec.14B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 in his vide Proceedings No.TN/ RO/MDU/42422/1/ M4/ PDC/LD/2014 dated 08.08.2014.

For Petitioner : Mr.A.John Xavier

For R1 : No appearance

ORDER

Assailing the order dated 22.10.2021 passed in ATA No.970 of 2014 by the EPF Appellate Tribunal, the present writ petition has been filed by the EPF Organisation.

2. Heard the learned Standing Counsel appearing for the EPF Organization and the learned counsel appearing for the respondent and also perused the award of the Appellate Tribunal.

3.The case of the petitioner is that the petitioner, namely, the Regional Provident Fund Commissioner-II (hereinafter referred to as the "PF

Commissioner"), is an authority under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the Act"). The PF Commissioner inspected the respondent establishment and found that the respondent had failed to remit the provident fund contributions for the periods from 10/2000 to 10/2005 and from 01/2006 to 06/2008, thereby committing defaults attracting the provisions of Section 14B of the Act. Consequently, proceedings under Sections 14B and 7Q of the Act were initiated and by order dated 08.08.2014, damages amounting to Rs.20,46,244/- were levied under Section 14B of the Act. Aggrieved by the said order, the respondent preferred an appeal in ATA No.970 of 2014. By order dated 22.10.2021, the Appellate Tribunal partly allowed the appeal and reduced the damages from 100% to 25% in respect of the amount of Rs.20,46,244/- which, according to the petitioner, is unsustainable in law and aggrieved by the same, the present writ petition has been filed. .

4. Per contra, the learned counsel appearing for the respondent submitted that the respondent establishment had preferred ATA No.970 of 2014 challenging the order dated 08.08.2014 passed under Section 14B of the Act

imposing damages of Rs.20,46,244/-. Taking note of the fact that the delay in remittance of the provident fund contributions was neither wilful nor deliberate, but was solely on account of mitigating circumstances, the Appellate Tribunal granted only partial relief. It was therefore contended that, in view of the mitigating circumstances, this Court may further reduce or waive the damages. .

5. The learned counsel for the respondent submitted that the PF Commissioner is not an aggrieved person and merely represents the EPF Organisation. The original adjudicating authority cannot challenge the appellate order passed by the Appellate Tribunal before this Court, as such a challenge is *non est* in law. The learned counsel for the respondent further submitted that, aggrieved by the order passed by the petitioner, who was the adjudicating authority, the respondent preferred an appeal before the Appellate Tribunal. Upon adjudication, the Appellate Tribunal modified the order passed by the adjudicating authority. Thereafter, the petitioner, in the capacity of the adjudicating authority, filed the present writ petition before this Court challenging the order of the Appellate Tribunal.

6. It was further submitted that the petitioner, being the adjudicating authority, is not an aggrieved person. Once the adjudicating authority passes an order, it becomes *functus officio* and therefore, cannot be regarded as an aggrieved person entitled to challenge the appellate order. The very same issue was considered by this Court in a batch of cases in W.P. No. 26413 of 2017, etc., by order dated 04.08.2023, wherein this Court held as follows:

> *"25. A conjoint reading of Sections 7-I and 7-L shows that an appeal to the Tribunal could be filed only by the person aggrieved by the order of the authority or the Central Government and it cannot be by an authority, even higher in hierarchy to the authority, who had passed the order in the absence of any authorisation by the Central Government. Further, for the purpose of determination of moneys to be recovered, the inquiry by the authority is deemed to be a judicial proceeding as is passed by a civil court. In effect, the order passed by the authority, is a judicial order passed exercising quasi-judicial power.*
>
> *26. Further, as evidenced above, sub-section (4) of Section 7-L makes the order passed by the Tribunal a finality, which could not*

be questioned in any court of law. True it is that the order of the Tribunal can be put in issue before this Court under Article 226 of the Constitution, as this Court exercises extraordinary jurisdiction. However, the only interpretation that could be given harmoniously to sub-section (4) of Section 7-L is that the authority, who had passed the order, being an authority lower in hierarchy to the Tribunal, is bound to accept the order passed by the Tribunal and is estopped from questioning the said order by filing appeal, except where the order passed is without jurisdiction and that too only if the authority has proper authorisation from the Central Government.

27. However, the other party to the lis, viz., the individual, cannot be estopped from taking the same on appeal before a higher judicial forum. Meaning thereby, the order passed by the Tribunal in an appeal by the employer, could at best be challenged only by the employer, if it is against the employer and the authority, who passed the original order is bound to act on the basis of the order passed by the Tribunal as the Tribunal is the final arbiter under the statute insofar as the authority is concerned. Further, it should be pointed *out that the order passed by the original authority merges with the appellate order and the original authority is bound by the order passed by the appellate authority. Any other construction, if given to Section 7-L (4) would render the appeal remedy an empty formality as every time, the order of the original authority is interfered with by the appellate authority, the original authority, if permitted to rush before the higher judicial forum, including the High Court under Art. 226, then it would defeat the very intent of the Parliament in including Section 7-L (4). Only to put a stop to further litigative process, more specifically by the original authority, sub-section (4) to Section 7-L had put shackles on the original authority by making the order passed by the Tribunal a finality. The order could be challenged by the authority by way of a writ petition only when the authority is clothed with authorisation by the Central Government or Board of Trustee to prefer appeal against the order passed by the appellate authority. In the absence of any power granted by the Central Government or Board of Trustee to the authority to file appeal assailing the order passed by the appellate authority, not only the original authority is barred from filing a writ petition, but* *any writ petition, if entertained would be against the statute, which is not the intent of the law makers. Further, it is to be pointed out that the only situation in which the original authority could put in issue an order in appeal is when the authority who had passed the order is not vested with jurisdiction. In all other scenarios, the original order merges with the appellate order and the appellate order becomes final and the original authority is bound by the order of the appellate authority..*

28. It is to be pointed out that when an authority performs quasi-judicial function, by passing orders in a matter, it neither acts in favour of the Government nor the individual, but is performing a duty endowed on it by the statute. The authority is immune from all attachments and realisations for and on behalf of the Government and is in no way attached with the order, as it is only the statutory prescription that is sought to be enforced by the authority and it has no personal afflictions to the said issue. In case, the order passed by the authority is not in favour of the department, at best the department, upon proper authorisation from the Government could seek further judicial recourse but it is not open to the original *authority who passed the order, without any authorisation, to challenge the order passed by the Tribunal.*

29. The above view expressed by this Court finds favour in the decision of the Apex Court in Mohtesham Mohd. Ismail case (supra), which clearly portrays the position in which the original authority is positioned when it comes to questioning the appellate order as has happened in the present case. For better appreciation, the relevant portion of the decision is quoted hereunder :-

"15. From the notification dated 22.09.1989, whereupon reliance has been placed by Mr. Bhan, it would appear that the officer authorized by the Central Government for the purpose of enforcing the provisions of the Act was specifically empowered to adjudicate upon the dispute. The said notification itself is a pointer to the fact that for the purpose of exercising the functions of the Central Government under one provision or the other, the officer concerned must be specifically empowered in that behalf. A general empowerment would, however, be permissible. Before the High Court, no notification was filed to show that the authority concerned was empowered to prefer an appeal on behalf of the Central

Government. The Central Government was not even impleaded as a party to the appeal. First Respondent did not file the appeal on behalf of or representing the Central Government. It was filed in its official capacity as the adjudicating authority and not as a delegatee of the Central Government.

16. An adjudicating authority exercises a quasijudicial power and discharges judicial functions. When its order had been set aside by the Board, ordinarily in absence of any power to prefer an appeal, it could not do so. The reasonings of the High Court that he had general power, in our opinion, is fallacious. For the purpose of exercising the functions of the Central Government, the officer concerned must be specifically authorized. Only when an officer is so specifically authorized, he can act on behalf of the Central Government and not otherwise. Only because an officer has been appointed for the purpose of acting in terms of the provisions of the Act, the same would not by itself entitle to an officer to discharge all or any of the functions of the Central Government. Even ordinarily a quasi-judicial authority can not prefer an appeal being aggrieved by and dissatisfied with the judgment of the appellate authority *whereby and whereunder its judgment has been set aside. An adjudicating authority, although an officer of the Central Government, should act as an impartial Tribunal. An adjudicating authority, therefore, in absence of any power conferred upon it in this behalf by the Central Government, could not prefer any appeal against the order passed by the Appellate Board.*

17. The Madras High Court in Rama Arangannal (supra) opined :

"4. On the question as to the maintainability of the appeal, it is seen that the Explanation to Section 54 of the Foreign Exchange Regulation Act 1973 treats only the Central Government as an aggrieved party for the purpose of filing an appeal to the High Court in respect of orders passed by the Foreign Exchange Regulation Appellate Board under that section. Therefore, only the Central Government can file and prosecute an appeal against the order of the Appellate Board, and not any other authority, In this case, the appeal has been filed by the Director of Enforcement, who is the initial authority who passed the adjudication order against the respondents and whose order has been set aside by the Appellate

Board on an appeal filed by them. Therefore, the Director of Enforcement cannot be said to be aggrieved by the order of the Appellate Board merely because its order of adjudication has been set aside by the Appellate Board."

(Emphasis Supplied)

31. When the appellate authority, in unequivocal terms, has rendered a categorical finding that the findings arrived at by the original authority, which are on the basis of facts, are erroneous, it does not lie in the mouth of the petitioner to contend that the act of the employer in tampering with the basic wages to their benefit is a question of law, which has to be gone into by this Court, is nothing but trying to split hairs in order passed by the appellate authority. When the appellate authority has clearly spelt out that the Act clearly defines basic wages and so long as the language of the enactment is without any ambiguity, the definition provided to any term therein has to be interpreted plainly and, therefore, original authority is bound by the language of the enactment and cannot borrow the language from any other enactment to suit its taste is a clear exposition of the ratio, which has been laid down time *immemorial in respect of the manner in which a statute has to be understood and in the said context, this Court is of the considered view that the decision arrived at by the appellate authority, on the basis of the facts placed before it, cannot be the basis for this Court to entertain the writ petitions, more so, when the petitioner has no authorisation to act on behalf of the Central Government by filing the present petitions.*

32. When the petitioner has no authorisation to file the writ petitions on behalf of the Central Government or Board of Trustee, challenge made to the order of the appellate authority by filing the writ petitions is an act without jurisdiction of the authority and, therefore, the writ petitions deserve to be dismissed by confirming the order passed by the Tribunal."

7. The aforesaid decision is squarely applicable to the facts of the present case. Further, by exercising the power available u/s 7L of the Act, the Appellate Tribunal had modified the actual amount of damages levied, which cannot be said to be perverse, illegal or arbitrary. Accordingly, applying the ratio laid down above, this writ petition stands dismissed confirming the impugned

order passed by the Appellate Tribunal. No costs. Consequently, the connected Miscellaneous petition is closed.

30.06.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes
PKN

To
The Regional Provident Fund Commissioner II
Employees Provident Fund Organisation
Regional Office No.1,
Lady Doak College Road,
Chokkikulam
Madurai.

M.DHANDAPANI,J.

PKN

ORDER MADE IN
W.P(MD)No.21084 of 2022

DATED : 30.06.2026