

2023 LiveLaw (SC) 722

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
HIMA KOHLI; J., RAJESH BINDAL; J.
CIVIL APPEAL NO. 9284 OF 2013; AUGUST 17, 2023

ASSISTANT PROVIDENT FUND COMMISSIONER
versus
M/S G4S SECURITY SERVICES (INDIA) LTD. & ANR.

Employees Provident Fund and Miscellaneous Provisions Act, 1952; Section 2b - Once the EPF Act contains a specific provision defining the words ‘basic wage’, then there was no occasion for the appellant to expect the Court to have travelled to the Minimum Wages Act, 1948, to give it a different connotation or an expansive one, as sought to be urged. Clearly, that was not the intention of the legislature. (Para 4)

For Appellant(s) Mr. Vikramjeet Banerjee, A.S.G. Mr. Brijesh Kumar Tamber, AOR Mr. Vinay Singh Bist, Adv. Mr. Prateek Kushwaha, Adv. Mr. Yashu Rustagi, Adv. Mr. Sahas Bhasin, Adv.

For Respondent(s) Dr. Abhishek Manu Singhvi, Sr. Adv. Mr. Rakesh Khanna, Sr. Adv. Mr. Amitabh Chaturvedi, Adv. Mr. Harvinder Singh, Adv. Mr. Ankit Monga, Adv. Ms. Prakriti Jalan, Adv. Mr. Gagan Gupta, AOR Mr. Nishit Agrawal, AOR Ms. Kanishka Mittal, Adv. Mr. Shrey Kapoor, Adv. Mr. Anuj Tyagi, Adv. Ms. Upasna Agrawal, Adv.

ORDER

1. The appellant-Assistant Provident Fund Commissioner is aggrieved by the judgment dated 20th July, 2011, passed by the High Court of Punjab and Haryana at Chandigarh, in an intra-Court Appeal¹, which was directed against the order dated 01st February, 2011, passed by the learned Single Judge, dismissing the Writ Petition² filed by the appellant.

2. Before the learned Single Judge, the appellant had impugned the order dated 15th June, 2009, passed by the Appellate Tribunal under the provisions of the Employees Provident Fund and Miscellaneous Provisions Act, 1952³, while determining the issue raised by the respondents regarding the liability of the Management under the provisions of Section 7A of the EPF Act. The stand of the appellant is that for the purposes of determining its contribution towards provident fund, the respondent no.1 was wrongly splitting the wage structure of the employees and treating the reduced wage as the basic wage to the detriment of the employees, thereby evading its liability to contribute the correct amount towards provident fund. The aforesaid stand taken by the appellant has been turned down by the Appellate Tribunal as also by the learned Single Judge and the Division Bench of the High Court.

3. Mr. Vikramjeet Banerjee, learned Additional Solicitor General submits that for the purposes of determining the basic wage under the EPF Act, reference must be made to the definition of the expression ‘*minimum rate of wages*’ under Section 4 of the Minimum Wages Act, 1948. This aspect has been considered in paragraph 6 of the impugned judgment and turned down holding that there was no compulsion to hold the definition of ‘*basic wage*’ to be equated with the definition of ‘*minimum wage*’ under the Minimum Wages Act, 1948.

¹ LPA No. 1139 of 2011 (O&M)

² CWP No. 15443 of 2009 (O&M)

³ Hereinafter referred as ‘EPF Act’

4. In our opinion, once the EPF Act contains a specific provision defining the words '*basic wage*' (under Section 2b), then there was no occasion for the appellant to expect the Court to have travelled to the Minimum Wages Act, 1948, to give it a different connotation or an expansive one, as sought to be urged. Clearly, that was not the intention of the legislature.

5. It is also pertinent to note that a similar issue had come up for consideration in the order dated 23rd May, 2002, passed by the APFC under Section 7A of the EPF Act, that was duly accepted by the appellant department as the said order was not taken in appeal.

6. In view of the aforesaid observations, the present appeal is dismissed as meritless. There shall be no orders as to costs.

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