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

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Date of Decision :18.02.2025

Bharat Sanchar Nigam Limited (BSNL)**...Petitioner****Versus****State of Haryana and others****...Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Ms. Anita Sharma, Advocate for the petitioner-Nigam.

Mr. Saurabh Girdhar, AAG, Haryana.

Mr. Lokesh Chander Aggarwal, Advocate
for respondent No.2.

Mr. Sushil Bhardwaj, Advocate for respondent No.3.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to order dated 23.06.2021 (Annexure P/1) passed by the Regional Provident Fund Commissioner-II imposing liability of payment of provident fund upon the petitioner-Nigam in respect of respondent No.3-employee for the period starting from 22.05.2002 to 30.11.2013.

2. Learned counsel for the petitioner-Nigam argues that the respondent No.3 was engaged merely for a period of three months i.e from April 2013 to July 2013 and that too through a Contractor namely, M/s Ramesh Kumar Mittal. Learned counsel for the petitioner-Nigam submits



that only after engaging with the petitioner-Nigam for a period of 03 months, respondent No.3 claimed for the benefit of regularization of service by filing an original application before the Central Administrative Tribunal, which was decided on 26.02.2016 wherein, a finding has been recorded that Karambir i.e. respondent No.3 is an employee of the Contractor and not that of the petitioner-Nigam. Learned counsel for the petitioner-Nigam further submits that despite the fact that for the period wherein respondent No.3 was employed through a Contractor from April 2013 to July 2013, the required E.P.F has already been paid by the Contractor M/s Ramesh Kumar Mittal.

3. Learned counsel for the petitioner further submits that certain allegation has been alleged against the petitioner-Nigam that respondent No.3 was working with the petitioner-Nigam from 22.05.2002 to 30.11.2013 and that for the alleged period of employment, the required payment of provident fund has not been paid and upon these allegations, the authority concerned vide its order dated 23.06.2021 has made the petitioner-Nigam liable for the payment of the provident fund, which order is totally arbitrary and illegal and without considering the actual facts which have been noticed in the order itself.

4. Upon notice of motion, the respondents have appeared. Learned counsel for the respondent No.3 submits that as per the findings recorded in para-106 of the impugned order dated 23.06.2021 it has been held that it has not been conclusively and convincingly proved either by petitioner-Nigam or the Contractor that respondent No.3-employee had worked with the Contractor from 01.05.2013 to 31.07.2013 whereas, the claim of the



employee is that he has worked from 22.05.2002 till 30.11.2013, which claim has been upheld by the authority concerned.

5. Learned counsel for the respondent No.3 submits that there was not enough material present before the authority concerned in the proceedings wherein the impugned order was passed so as to hold that respondent No.3 was the employee of the Contractor hence, the petitioner-Nigam has rightly been held liable by the authority concerned for payment of the Provident Fund and that too from 22.05.2002 to 30.11.2013.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. It may be noticed that respondent No.3 -employee was claiming himself to be an employee of the petitioner-Nigam and had gone to the Central Administrative Tribunal for regularization of his services wherein, a categorical finding has been recorded by the competent Court of law that respondent No.3 is not the employee of the petitioner-Nigam but that of the Contractor. Thereafter, the Provident Fund Authorities started enquiring into the issue and nothing has been brought on record to prove that the employee concerned i.e. respondent No.3 was working since 22.05.2002 to 30.11.2013, except for his bald statement. That being so, the finding recorded in the impugned order that the respondent No.3-employee was working with the petitioner-Nigam from 22.05.2002 to 30.11.2013 is not based upon any material evidence, which has been brought on record to prove beyond doubt that respondent No.3-employee actually worked with the petitioner-Nigam starting from 22.05.2002 to 30.11.2013..

8. Even otherwise, the assertion of the petitioner-Nigam is that



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respondent No.3 was the employee of the Contractor and the said Contractor i.e. M/s Ramesh Kumar Mittal was also heard, who corroborated the statement of the petitioner-Nigam and has also showed that for the period respondent No.3 worked with the petitioner-Nigam, the provident fund has already been deposited.

9. Ignoring all these facts merely because that the assessing officer did not decide to accept the statement of Contractor, the impugned order has been passed. The Assessing officer has to record a finding as to why, the bald statement of the respondent No.3-employee should be accepted so as to ignore the relevant record produced by the petitioner-Nigam as well as Contractor. Nothing has come on record as to why, the statement of the petitioner-Nigam as well as Contractor has not been accepted.

10. Further, learned counsel for the Provident Fund Authority was requested to point out any evidence which shows that the respondent No.3-employee was working from 22.05.2002 to 30.11.2013.

11. Not even a single strand of evidence which was brought on record which has been relied upon by Regional Provident Fund Commissioner-II to record the finding that respondent No.3 was working with the petitioner-Nigam from the period 22.05.2002 to 30.11.2013. has been shown to this Court. In the absence of any such material brought on record, the findings recorded by the authorities concerned in the impugned order dated 23.06.2021 (Annexure P/1) cannot be sustained in the eyes of law.

12. Keeping in view the above, the impugned order dated



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23.06.2021 (Annexure P/1) passed by the authorities concerned holding the petitioner-Nigam liable for payment of provident fund by recording a finding that respondent No.3 worked with the petitioner-Nigam from the period 22.05.2002 to 30.11.2013 is set aside and the writ petition is allowed in above terms.

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

February 18, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No