



**CM-4645-CWP-2025 in/and
CWP-9653-2017** 1

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

(122) **CM-4645-CWP-2025 in/and
CWP-9653-2017
Date of Decision : April 01, 2025**

**Central Board of Trustees through Assistant Provident Fund
Commissioner (Legal)**

.. Petitioner

Versus

M/s Hi-Grip Engineer (India)

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajesh Hooda, Advocate, for the applicant-petitioner.

None for the respondent.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-4645-CWP-2025

Present application has been filed for recalling the order dated 10.03.2025, by which, the present writ petition was dismissed for non-prosecution.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the same is allowed. The order dated 10.03.2025 is recalled and the writ petition is restored to its original number and status.

CWP-9653-2017

1. In the present writ petition, the challenge is to the order dated 06.09.2016 (Annexure P-4) passed by the Appellate Tribunal by which, the appeal filed by the respondent-establishment against the order dated 11.06.2021 (Annexure P-1) passed by the Assistant Provident Fund Commissioner under Section 7-A of the EPF Act and Miscellaneous



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8. The argument raised by the petitioner that drawing of adverse inference was valid in the facts and circumstances of the present case, has already been dealt with by the Appellate Tribunal while passing the impugned order dated 06.09.2016 (Annexure P-4).

9. It may be noticed that after the premises were checked by the enforcement staff of the Provident Fund Office on 10.02.2005 and a report was given that 22 employees were working, which list of 22 employees was signed by one Vijay Kumar Supervisor. Said finding of fact by the Office of petitioner has been disbelieved by the Appellate Tribunal by giving due reasons. The first reason which is being given by the Tribunal is that the record maintained by the respondent-establishment was produced not only before the Provident Fund Authorities but the same record was also produced before the ESI Authorities in the year 2006 according to which, only 12 employees were working. It has already come on record that attendance register as well as salary register were produced before the ESI Authorities which fact has been accepted by the Appellate Tribunal to hold that record produced before ESI is a valid so as to rebut the presumption of the petitioner authorities to hold that there were more 20 employees who are working with the respondent-establishment so as to cover the said establishment under 1952 Act.

10. Learned counsel for the petitioner submits that it could be a possibility that after the premises were checked by the authorities of the Provident Fund in the year 2005, the strength might have decreased which fact has been ignored and not accepted by the Tribunal hence, merely that in the year 2006, 12 employees were found working with the respondent-



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establishment, cannot be a ground to hold that even in the year 2005, only 12 employees were working and not 22 despite the fact that a list of the employees was prepared and got signed by the Supervisor of the respondent-establishment.

11. Qua the said argument, it may be noticed that list of 22 employees which have been taken into account to hold the respondent-establishment liable under 1952 Act was signed by one Vijay Kumar stated to be the Supervisor of the establishment. It has already been recorded that no Vijay Kumar was working with the respondent-establishment, which fact has gone un-rebutted at the hand of the petitioner.

12. On being asked to show and prove the identity of the said Vijay Kumar so as to rely upon the said list, learned counsel for the petitioner has not been able to point out about the identity of the said Vijay Kumar.

13. Further, 22 employees were never produced or any statement of such 22 employees was recorded to prove that they were the employees the respondent-establishment. No such statement was ever produced before the Appellate Tribunal. The Appellate Tribunal rightly held that keeping in view the fact that no Vijay Kumar was working with the respondent-establishment as a Supervisor and 22 employees stated to be working have not been examined or their statements have not been recorded so as to substantiate the list of 22 employees hence, the finding has been recorded that only 12 employees were working, needs no interference at the hands of this Court.

14. Further, this Court is not sitting in an appeal over the decision of an Appellate Authority which is a statutory authority. Once on the basis of the evidence which had come on record, findings have been recorded and the said



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findings have not been shown to be perverse in any manner, no ground is made

out for any interference by this Court in the facts and circumstances of the present case.

15. Accordingly, the writ petition is dismissed.

April 01, 2025
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No