

Manager Vs. the Regional Provident Fund Commissioner,

Manager Vs. the Regional Provident Fund Commissioner,

SooperKanoon Citation : sooperkanoon.com/903094

Court : Kerala

Decided On : Jan-07-2010

Judge : S.R. Bannurmath, C.J. and; Thottathil B. Radhakrishnan, J.

Acts : Employees Provident Fund and Miscellaneous Provisions Act, 1952 - Section 7A and 7B; ;[Constitution of India](#) - Article 226

Appeal No. : W.A. No. 2945 of 2009

Appellant : Manager

Respondent : The Regional Provident Fund Commissioner, ;The Employees Provident Fund Appellate and Assistant Prov

Advocate for Def. : No Appearance

Advocate for Pet/Ap. : G. Bhagavat Singh, Party-in-Person

Disposition : Appeal dismissed

Judgement :

S.R. Bannurmath, C.J.

1. Aggrieved by the judgment of the learned Single Judge dated 25th May, 2009 in O.P. No. 31954 of 2000 and the order dated 25th September, 2009 in R.P. No. 748 of 2009 the present writ appeal is filed.

2. The dispute raised in this case is regarding the liability of coverage under the Employees Provident Fund and Miscellaneous Provisions Act, 1952, hereinafter referred to as 'the Act' in respect of an educational institution.

3. The facts as revealed indicate that a school was initially started by the name M/s. Sree Narayana Charitable Trust in 1987. This position continued till 1995 when as per Ext.P4 the school was entrusted to M/s. Sree Narayana Vidya Bhavan Teachers' Consortium following the decision taken by the committee of the Trust. Again in 1996, the management was entrusted to M/s. Sree Narayana Charitable and Educational Society. Thereafter, the authority under the Act after inspection directed the Secretary of the Society to remit the provident fund contribution which was contested and after enquiry as contemplated under Section 7A of the Act, Ext.P8 order came to be passed. Aggrieved by the same, when the appellant challenged it before the appellate authority, the appellate authority confirmed the said order under Ext.P10 which was the subject matter of the writ petition.

4. Before the authorities, the learned Single Judge and this Court, two contentions are raised, namely the infancy protection available and regarding the employees being less than 20 and as such non applicability of the Act.

5. In our view, as the original authority as well as the appellate authority have come to a conclusion against the appellant based on the finding of fact and even as the learned Single Judge has after relook affirmed the same, this Court in exercise of the appellate jurisdiction as well as under Article 226 of the Constitution would not interfere with such finding of facts. So far as the order Ext.P9 on the review petition said to have been filed by the appellant is concerned, as after the review he has approached the appellate authority, which has also again considered the contentions of the appellant, arguments under Section 7B of the Act do not survive.

We find absolutely no merit in the contentions raised by the appellant. Hence the writ appeal is rejected.