

PUBLIC GRIEVANCES COMMISSION
GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI
I.P. Estate (near ITO), Vikas Bhawan, M-Block, New Delhi-110110
Tel Nos. 011-23379900-01 Fax No.011-23370903
Order under Para 2(B) of the PGC Resolution No F.4/14/94-AR dated 25.9.97

Date of hearing: 01.09.2020

Complainant : Shri Ramesh Prasad

Respondent : The Commissioner,
Labour Department, GNCTD
through
Sh. Tuka Ram, Labour Officer
South West District – Present.

Grievance No. : PGC/2019/A.II/Labour/01

1. Brief facts of the case

- 1.1 Shri Ramesh Prasad filed a grievance petition before Public Grievances Commission on 27.02.2019, aggrieved by non-payment of statutory dues like ESI and EPF by M/s. Gorkha Security Services.

2. Facts emerged during the proceedings

- 2.1 Sh. Tukaram, Labour Officer, Office of Joint Labour Commissioner, South West District was present in the hearing and submitted a letter dated 19.08.2020 addressed to Central Provident Fund Commissioner, Bhavishya Nidhi Bhawan, Government of India by himself and the same is taken on record stating therein that *“Earlier letters vide no. IO/SWD/2019/5310 dated 28.03.2019, IO/SWD/2019/111153 dated 30.08.2019, IO/SWD/2019/11406 dated 10.10.2019 and JLC/SWD/2020/200 dated 09.01.2020 (copies enclosed) were already sent to you to take appropriate action. Since the matter pertains to your department, the same is being forwarded again (on the directions of the Joint Labour Commissioner, South West District) herewith for necessary action and direct disposal at your end. The action taken report in the matter may be sent to the Member, Public Grievances Commission by appearing in person through a senior officer and copy to Sh. Ramesh Prasad, the complainant.”*

2.2 Sh. Ramkishan, Enforcement Officer (Delhi North), EPFO was present in the hearing and has filed an Action Taken Report dated 01.09.2020 and the same is taken on record stating that:-

"A complaint received for non deposition of EPF contribution of Sh. Ramesh Prasad by the ex-employer management M/s. Gorkha Security Services, M 8, Vardhman City 2 Plaza, Asaf Ali Road, New Delhi – 110002 rendering services at Dada Dev Matri Avum Shishu Chikitsalaya, GNCT of Delhi, Dabri, New Delhi-110 045.

In this regard, the owner of ex-employer contacted telephonically to provide facts and records for verification. So, the ex-employer has submitted letter dated 09.01.2020 and 31.08.2020 (enclosed). As per their letters, their submissions are as under:-

Letter dated 09.01.2020 – Reference your mail dated 30.12.2019 to provide records for verification from last date of inspection in respect of the above cited employees stated to the ex-employee of our establishment. In this context, the following submissions are made for your kind consideration:-

- 1. The establishment deployed few employees with Dada Dev Matri Avum Shishu Chikitsalaya, GNCT of Delhi, Dabri during September 2011 to August 2013. The amount of PF was determined by the competent authority u/s 7A of the Act vide order passed by the Regional PF Commissioner-II, Sh.M.P. Singh, on 03.03.2017 for the period 09.2011 to 06.2013 determining an amount of Rs.14,02,440/-. Copy of the order is annexed as Annex-1. The assessment was disputed before the Hon'ble EPF Tribunal, presently CGIT vide ATA No..184(4)/2017/865 dated 23.11.2017 (copy enclosed). The establishment was directed to pre deposit 30% of the amount of assessment and accordingly a sum of Rs..4,20,732/- was remitted on 01.05.2017 in compliance therewith. Further assessment initiated in respect of Sanjay Gandhi Memorial hospital for the period 08.2009 to 02.2013 which is also subjudice before the CGIT (copy of the admitting order is enclosed herewith as Annexure-IV). It may be added that the contract with Dada Dev Matri Avum Shishu Chikitsalaya, GNCT of Delhi, Dabri stands terminated w.e.f. 31.07.2013 (copy enclosed as Annex-V).*
- 2. It was gathered from the records of the EPF office that the complaint was made by Sh.. Ramesh Prasad, which was received in RO-Delhi East which was in turn forwarded to RO Delhi North and found that the said employee worked in Gaurav Enterprises, against the PF Code No..DDSSHDD/34934/2067 against UAN 1008597884235 for the period 01.04.2016 to 30.09.2018 who applied for the settlement and his PF was settled on 18.03.2019, as per the details appended as Annexure-VI.*
- 3. As regards the complaint filed by Sh. Om Prakash Thakur, r/o Village Buradi, it is submitted that we have verified our records and found that no employee of such name exists in our records. Moreover, the complaint is not*

substantiated with any employment with us. It is learnt that the confirmation and providing of evidence/documents has been desired by the Enforcement Officer through his letter 20.11.2019 (copy enclosed as Annex-VII). The same may kindly be provided in order to enable us to submit suitable reply thereof

Letter dated 31.08.2020 – With reference to your telephonic conversation regarding a letter received from the office of the Joint Labour Commissioner, Hari Nagar bearing ref. No. JLC/SWD/2020/3415 dated 19.08.2020 in respect of one of our employee Sh. Ramesh Prasad for non deposition of PF dues in respect of the side Dada Dev Matri Avum Shishu Chikitsalaya, GNCT of Delhi, Dabri for the period 09.2011 to 07.2013. It is submitted that an order was passed by the RPFC-II regarding the same site and period on 03.03.2017 for the period 09.2011 to 07.2013 determining an amount of Rs.14,02,440/-. The assessment was disputed before the Hon'ble EPF Tribunal and the establishment was directed to pre deposit 30% of the amount of total assessment and accordingly Rs.4,20,732/- was remitted in compliance. The matter is still sub judice under CGIT vide ATA no. 184(4)/2017/865 dated 23.11.2017. The detailed reply is already submitted to your office vide our letter dated 09.01.2020 (copy of letter enclosed along with all the enclosure). In view of the above facts, it is humbly submitted that the office has already assessed the EPF dues for the complainant, however, since the case is under sub-judice before the Hon'ble CGIT, New Delhi."

2.3 Sh. Tukaram, Labour Officer present in the hearing stated that the Labour Department has already sent four letters to Central Provident Fund Commissioner, Government of India for taking appropriate action in the matter at their end and that no action remains pending on the part of the Labour Department. He further submitted that as the instant matter is under the purview of the EPF department of the Central Government, the Labour Department may be exempted in this matter.

1.4 Sh. Ramkishan, Enforcement Officer (Delhi North), EPFO present in the hearing submitted that assessment was done and amount of PF determined by the competent authority under section 7A of the Act vide order passed by the Regional PF Commissioner-II on 03.03.2017 (for the period 09.2011 to 06.2013), determining an amount of Rs.14,02,440/-. However, the said assessment was disputed before the Hon'ble EPF Tribunal (now Central Government Industrial Tribunal). The establishment was directed to pre deposit 30% of the amount of assessment and accordingly a sum of Rs.4,20,732/- was remitted on 01.05.2017 in compliance therewith.

He further stated that the matter is sub-judice at present under Central Government Industrial Tribunal.

3. Directions

- 3.1 The case stands disposed of in the Commission as the instant matter is sub-judice at present under the Central Government Industrial Tribunal and therefore, cannot be heard in the Commission any more. However, the complainant is at liberty to approach the Commission again in case he did not get any benefit in respect of his grievance pending at the Tribunal.

(SMT. MADHU SHARAN)
MEMBER (PGC)

No. PGC/2019/A.II/Labour/01

Dated: 01.09.2020

Copy to:

1. The Commissioner, Labour Department, GNCT of Delhi, 5, Sham Nath Marg, Delhi-10054.s
2. The Joint Labour Commissioner, GNCT of Delhi, District South-West Labour Department, DTC Colony, Pratap Nagar, Hari Nagar, New Delhi-110064.
3. The Central Provident Fund Commissioner, 14, Bhavishya Nidhi Bhawan, Bhikaji Cama Place, R.K.Puram Marg, New Delhi-110 066
4. The Medical Superintendent, Dada Dev Matri Avum Shishu Chikitsalaya, GNCT of Delhi, Dabri, New Delhi-110 045
5. The Director General Employees State Insurance Corporation, Panchdeep Bhawan, Comrade Inderjeet Gupta Marg, New Delhi-110002.
6. Shri Ramesh Prasad