



MPBalekar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 14221 OF 2017

The Central Board of Trustees,
Employees Provident Fund
Organisation, Thr. the Asst. Pf
Commissioner ... Petitioner
V/s.
Exotic Cuisine Pvt. Ltd. ... Respondent

Sandeep Mishra for the petitioner.

Samiksha Kanani a/w Gayatri Naik for the respondent.

CORAM : AMIT BORKAR, J.

DATED : APRIL 17, 2026

P.C.:

1. The petitioner has brought this challenge against the judgment and order dated 18 April 2016 passed by the Presiding Officer of the Employees Provident Fund Appellate Tribunal at New Delhi in ATA No. 46(9) of 2015. By that order, the appeal preferred by the respondent under Section 7-I of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 came to be allowed.

2. On careful reading of the record, it appears that the petitioner is mainly aggrieved not only because the appeal was allowed, but because of the manner in which such allowance has been made. The petitioner contends that the Tribunal has interfered with the order of the First Authority without properly



examining the factual and legal basis on which that order was passed. It is also pointed out that the Tribunal, being an appellate body, was expected to deal with the entire controversy in a complete manner. Instead, according to the petitioner, the Tribunal has taken a short route. This, according to the petitioner, has resulted in miscarriage of proper adjudication. The challenge is therefore not merely to the conclusion but to the reasoning process which led to such conclusion.

3. The reasons recorded by the Appellate Authority for allowing the appeal show that the focus of the Tribunal was mainly on the alleged breach of principles of natural justice and on the manner in which the First Authority conducted the adjudication. It is no doubt true that compliance with principles of natural justice is very important. Any order passed in violation of such principles may not be sustainable. However, at the same time, it is equally necessary that the Appellate Authority should examine whether such breach has actually caused prejudice and what would be the proper consequence of such finding. In the present case, it appears that though the Tribunal has observed breach of natural justice, it has not properly considered the submissions made by both sides on merits of the dispute. The Tribunal has not recorded any clear finding on the substantive issues raised before it. This creates difficulty. Because once the Tribunal comes to a conclusion that there is breach of natural justice, the normal and proper course would be to send the matter back to the First Authority for fresh consideration. Instead of doing so, the Tribunal has proceeded to allow the appeal itself. This gives an impression as if the Tribunal



has accepted the case of the respondent on merits, even though no detailed discussion on merits is found in the order. Such approach does not appear to be consistent with settled principles of appellate adjudication.

4. In view of this position, when there is no proper adjudication on merits by the Appellate Authority, the impugned order cannot be allowed to stand. An appellate order must show application of mind to the issues involved. It must deal with the rival contentions in a reasonable manner. In the present case, the absence of such consideration is clearly visible. The Tribunal has neither affirmed nor reversed the findings of the First Authority on proper grounds. Instead, it has set aside the order in a manner which leaves the controversy unresolved. This results in uncertainty and also affects the rights of the parties. Therefore, this Court is of the opinion that the impugned order dated 18 April 2016 passed by the Presiding Officer, Provident Fund Appellate Tribunal, New Delhi in ATA No. 46(9) of 2015 cannot be sustained in law. The same deserves to be quashed and set aside.

5. Having reached this conclusion, it becomes necessary to decide the further course. Since the Tribunal has not considered the matter on merits, it would not be proper for this Court to undertake such exercise for the first time in writ jurisdiction. The parties must get an opportunity to present their case fully before the Appellate Authority. Therefore, the proceedings are required to be remitted back to the Appellate Authority. The Appellate Authority shall reconsider the appeal afresh. It shall take into account all the contentions raised by both sides. It shall give



adequate opportunity of hearing. It shall then pass a reasoned order dealing with all relevant aspects. This course would ensure fairness and also proper adjudication.

6. In view of the above discussion, the writ petition is disposed of.
7. The impugned order is set aside.
8. The matter is remitted back to the Appellate Authority for fresh decision in accordance with law.

(AMIT BORKAR, J.)