

Provident funds can't be maintained in form of cash: SECP

ISLAMABAD: The Appellant Bench of the Securities and Exchange Commission of Pakistan (SECP) Wednesday conveyed to the trustees of provident funds of companies that the provident funds cannot be maintained in the form of cash and funds must be deposited in the special savings account or National Saving schemes.

These observations have been made by an SECP Appellant Bench against a Provident Fund Trust of a textile mills here on Wednesday.

In the instant case, the trustees of provident fund company breached provisions of section 227 of the Companies Ordinance by maintaining substantial amount of funds in the form of cash and cash equivalent when they were duty-bound to deposit the fund amount in the special savings account, the SECP Bench added.

The brief facts of the case are that the textile company had a provident fund balance of Rs 86.634 million including Rs 17.826 million in cash form and Rs 30.705 million in the form of prize bonds. Thus, trustees of the company were prima facie found in violation of provisions of section 227(2) of the Companies Ordinance, 1984 (Ordinance) by not depositing provident fund in the specified manner.

The Executive Director, Corporate Supervision Department (Respondent) argued that keeping such a huge fund balance in the form of prize bonds raised serious concerns regarding legitimate utilization of the fund and whether benefits have been transferred to members of the fund or not. The Respondent further argued that the company submitted that the said prize bonds are placed in a fireproof safe at the mills and no return was earned on these; however, such claim of the Company or the Authorized Representative cannot be deemed satisfactory.

According to the bench order, the Executive Director, Corporate Supervision Department (Respondent), dissatisfied with the response, held that the Trustees breached the provisions of section 227 of the Ordinance by maintaining huge amounts of funds in the form of cash and cash equivalent. Furthermore, the respondent held that the trustees are duty-bound to deposit the fund amount in the special savings account to be opened for the said purposes in a scheduled bank. The SECP department was of the view that the non-compliance was willful and in exercise of powers conferred under section 229 of the Ordinance.

The SECP Appellant Bench observed that the section 227 of the Ordinance is a very clear and unambiguous which provides that, "All moneys or securities deposited with a company by its employees in pursuance of their contracts of service with the company shall be kept or deposited by the company within 15 days from the date of deposit in a special account to be opened by the company for the purpose in a scheduled bank or in the National Saving Schemes, and no portion thereof shall be utilized by the company

except for the breach of the contract of service on the part of the employee as provided in the contract and after notice to the employee concerned. "In the instant case, the Appellant breached provisions of section 227 of the Ordinance by maintaining substantial amount of funds in the form of cash and cash equivalent when they were duty bound to deposit the fund amount in the special savings account. Furthermore, the Appellant's argument that the violation was unintentional and that all funds have subsequently been deposited in the bank holds no merit whatsoever as n evidence has been provided to that effect." In view of the foregoing, the SECP Appellant Bench sees no reason to interfere with the impugned order. The impugned order of the Executive Director, Corporate Supervision Department is upheld, it added.