

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.6490 OF 2014

Geraldine Lazaro

.. Petitioner

Versus

1. The Regional Provident Fund Commissioner-I,
Employees Provident Fund Organization,
Regional Office, Chennai Region and Puducherry,
No.37, Royapettha High Road,
Chennai - 600 014.
2. The Provident Fund Commissioner-II,
Regional Office, Chennai Region and Puducherry,
No.37, Royapettha High Road,
Chennai - 600 014.
3. The Assistant Provident Fund Commissioner (C&R),
Employees Provident Fund Organization,
Regional Office, Chennai Region and Puducherry,
No.37, Royapettha High Road,
Chennai - 600 014.
4. Fountainhead Communications Pvt. Ltd.
rep. by the Managing Director,
Aarti Chambers, II Floor, 189,
Mount Road, Chennai - 600 006.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus directing the respondents to (i) complete the enquiry orderer under Section 7A of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 against M/s.Fountainhead Communication Private Limited vide No.CHN/TN/CC1/17/23401/Eng/Reg1/2012, dated 22.03.2012 in a time bound manner ; (ii) initiate action under the relevant provisions of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 against the Employer for failure of statutory obligations ; (iii) recover any and all monies owned by the said M/s.Fountainhead Communication Private Limited towards PF contributions of the petitioner together with interest.

For Petitioner :M/s.Deepika Hemkumar

For Respondents:Mr.K.Raman, Standing Counsel for RR1-3
No appearance for R4

O R D E R

Heard Mr.M.Deepika Hemkumar, learned counsel appearing for the petitioner and Mr.K.Raman, learned Standing Counsel appearing for the respondents 1 to 3 and perused the materials placed on record.

2. The petitioner has filed this writ petition praying for a direction upon the respondent to complete the enquiry ordered under Section 7A of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act') against the fourth respondent management and to initiate appropriate action under the provisions of the Act against the employer for failure to comply with the statutory obligations and to recover all monies due and payable to her by the fourth respondent.

3. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents 1 to 3/Employees Provident Fund Organization. Though the fourth respondent has been served and their name is printed in the cause list, none appears for the fourth respondent.

4. After hearing the learned counsel on either side at length, it is seen that the grievance of the petitioner is that pursuant to the enquiry conducted under Section 7A of the Act, after notice dated 22.03.2012, only part of the amount due and payable to the petitioner was remitted into her account and the petitioner was not put to notice as to whether final order is passed or the matter is still pending. In this regard, the petitioner had sent representation on 28.12.2013 and since no orders were passed on the representation, she is before this Court by way of this writ petition.

5. From the counter-affidavit filed by the Assistant Provident Fund Commissioner (Legal), Chennai, it is seen that the enquiry under Section 7C of the Act was concluded and assessment of dues was made and an order to the said effect was passed on 04.03.2013.

6. The learned counsel for the respondents 1 to 3 / organization submitted that the respondents 1 to 3 were under the impression that whatever the amount due and payable has been

settled and therefore, they have treated the matter as closed. In fact, a copy of the assessment order dated 04.03.2013 has been produced before this Court, from which, it is seen that the order has been communicated only to the fourth respondent management.

7. In my view, if the petitioner, the erstwhile employee of the fourth respondent, is not satisfied with the assessment order dated 04.03.2013, it is always open to her to agitate her rights in the manner known to law, for which purpose, the assessment order dated 04.03.2013 is necessary and unless and until the said order is communicated to the petitioner, she would not be in a position to workout the remedy in accordance with law. Therefore, taking note of the fact that already assessment order dated 04.03.2013, in which, the petitioner's claim also has been dealt with, was not served on the petitioner, the petitioner is entitled to receive the certified copy of the order dated 04.03.2013.

8. Accordingly, there will be a direction to the third respondent to communicate the certified copy of the assessment order dated 04.03.2013 within a period of two weeks from the date of receipt of a copy of this order to the petitioner by registered post with acknowledgment due. On receipt of the said order, it is open to the petitioner to work out her remedy in accordance with law.

9. With the above direction, this writ petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

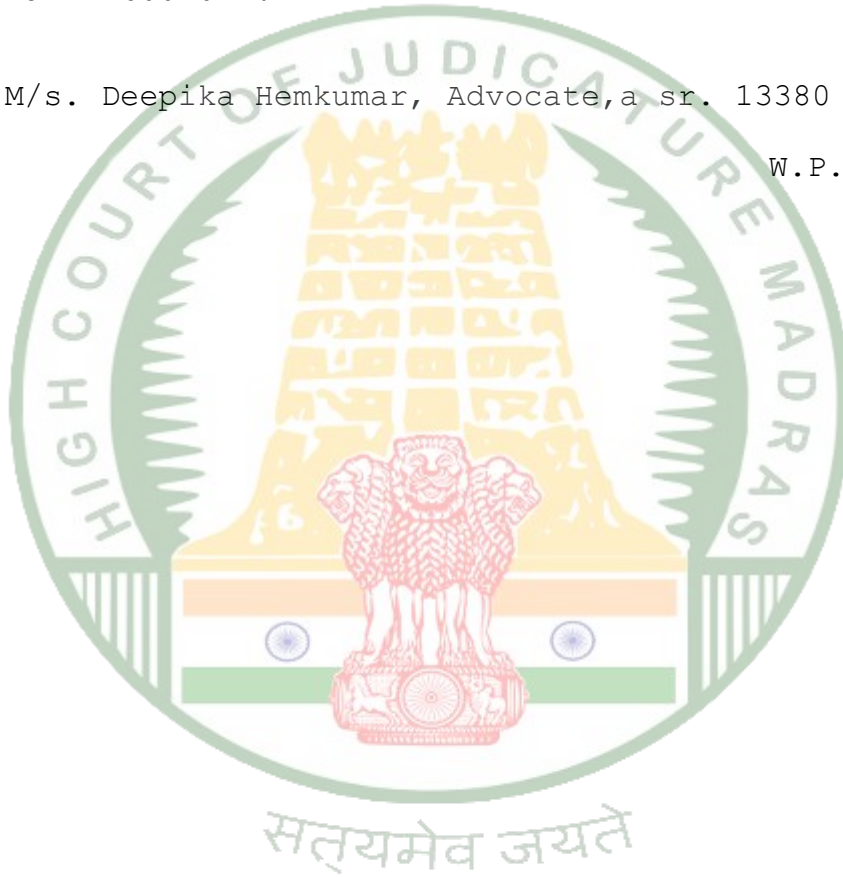
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1 cc to M/s. Deepika Hemkumar, Advocate, a sr. 13380

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GR (CO)
kk 21/3



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