

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-08-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.2531 OF 2015

M/s.William Lea (India) Private Limited,
rep.by its Manager-HR,
Module No.0308, 'D' Block,
3rd Floor, Tidel Park,
Rajeev Gandhi Salai,
Taramani,
Chennai-600 113.

... Petitioner

-Vs-

1. Employees Provident Fund Organisation,
rep.by its Regional Provident Fund Commissioner-I,
Regional Office,
No.37, Royapettah High Road,
Chennai-600 014,
Tamil Nadu.

2. The Presiding Officer,
Employees Provident Fund Appellate Tribunal,
4th Floor, Core II, Scope Minar,
Laxmi Nagar,
Delhi-110 092.

... Respondents

Writ Petition has been filed praying for issuance of a writ of certiorari, to call for the records from the first respondent, the quash the Order of the 1st Respondent dated nil December 2014, bearing No.TN/CHN/CC1/20/TN-51433/ENF/2014, quash the same, as illegal, arbitrary and contrary to law.

For petitioner : Mr.Balan Haridas

For respondent 1 : Mr.K.Gunasekaran

O R D E R

The petitioner, aggrieved by the order of the Regional Provident Fund Commissioner, Chennai, first respondent herein, passed under Section 7-A of the Employees Provident Fund and Miscellaneous Provisions Act, in short, "the Act", has filed this Writ Petition.

2. Mr. Balan Haridas, learned counsel for the petitioner, would submit that though the impugned order is appealable before the Appellate Tribunal, which was functioning at Bangalore, as on today, it is not functioning at Bangalore, and the matter has also been seized of by the Hon'ble Supreme Court of India in W.P. (Civil).No.999 of 2014, wherein the Hon'ble Supreme Court, on 20.03.2015, passed the final order, which is extracted as under :

"As far as the second aspect is concerned, as it is conceded to by the learned Solicitor General that the appeals can be presented at Delhi till the Tribunal is constituted at Bangalore, we further clarify that till the Tribunal is constituted, the appeals that ought to have been filed at Bangalore and are filed in Delhi, no coercive steps shall be taken in respect of the cases which are required to be preferred before the Southern Tribunal to be situated at Bangalore, for there is no authority who can take up the matter for grant of any interim relief.

The writ petition is, accordingly, disposed of. No order as to costs."

3. It is the submission of the learned counsel for the petitioner that the above order of the Supreme Court would make it clear that till the Tribunal is constituted at Bangalore, the appeals that ought to have been filed at Bangalore and are filed in Delhi, no coercive steps shall be taken in respect of the cases which are required to be preferred before the Southern Tribunal to be situated at Bangalore and, therefore, recovery proceedings cannot be initiated against the petitioner in terms of the impugned order.

4. Per contra, Mr. K. Gunasekaran, learned counsel appearing for the first respondent, by drawing the attention of this Court to the counter affidavit filed by the first respondent, would submit that since the petitioner is having an effective alternative remedy to file an appeal before the Tribunal at Delhi against the impugned order, this Writ Petition is not maintainable.

5. This Court has considered the rival submissions and perused the materials placed before it.

6. Admittedly, the Tribunal functioning at Delhi is not constituted at Bangalore and hence the petitioner is not in a position to challenge the vires of the impugned order before the Tribunal at Bangalore. The Hon'ble Supreme Court, in the above said order, also made it clear that "till the Tribunal is constituted,

the appeals that ought to have been filed at Bangalore and are filed in Delhi, no coercive steps shall be taken in respect of the cases which are required to be preferred before the Southern Tribunal to be situated at Bangalore..." In the light of the same, till the Tribunal is constituted at Bangalore and it functions, no coercive steps shall be taken against the petitioner as to non-compliance of the order, dated Nil-12-2014, passed under Section 7-A of the Act.

7. The Secretary of Ministry of Labour and Employment, Government of India, New Delhi, shall take every endeavour to comply with the order, dated 20.03.2015, passed by the Hon'ble Supreme Court in W.P.(Civil) No.999 of 2014.

8. Writ Petition is disposed of accordingly. No costs. Consequently, the connected M.P.No.2 of 2015 is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1. Employees Provident Fund Organisation,
rep.by its Regional Provident Fund Commissioner-I,
Regional Office,
No.37, Royapettah High Road,
Chennai-600 014, Tamil Nadu.
2. The Presiding Officer,
Employees Provident Fund Appellate Tribunal,
4th Floor, Core II, Scope Minar,
Laxmi Nagar, Delhi-110 092.
3. The Secretary,
Ministry of Labour and Employment,
Government of India,
New Delhi.

+1cc to M/s.Balan Haridas, Advocate, S.R.No.42256
+1cc to Mr.K.Guna Sekar, Advocate, S.R.No.42669

W.P.No.2531 of 2015

LRS (CO)
CA(03/09/2015)