

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2015

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.7099 of 2015 &
M.P.No.1 of 2015

Bullockcart Workers Development Association
Represented by its Secretary,
BWDA Community Centre,
No.838, East Pondy Road,
Villupam - 605 602. ... Petitioner

v.

The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Sub- Regional Office,
Sree Complex, No.18, Madurai Road,
Tiruchirappalli - 620 008. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of mandamus, directing the respondent to forthwith dispose of the petitioner's application for Review dated 27.10.2015, which was received by the respondent on 28.10.2014 filed pursuant to the order of the respondent in No.TN/SRO-TRY/PDC/C-21/76975/7Q Proc/2014, dated 16.9.2014 demanding a sum of Rs.15,47,803/- towards interest.

For Petitioner : Ms.Radha Gopalan
For Respondent : Ms.V.J. Latha

ORDER

The petitioner-Association has filed the above writ petition to issue a Writ of Mandamus, directing the respondent to forthwith dispose of their application for review dated 27.10.2015, which was received by the respondent on 28.10.2014, filed pursuant to the order of the respondent dated 16.9.2014 demanding a sum of Rs.15,47,803/- towards interest.

2. Heard Ms.Radha Gopalan, learned counsel appearing for the petitioner and Ms.V.J. Latha, learned Standing Counsel appearing for the respondent.

3. It is the case of the partitioner that the proceedings of the respondent dated 16.9.2014, which is an ex parte order, without considering the request of the petitioner for adjournment, is arbitrary. Further, according to the petitioner, the interest has to be calculated on the number of days of delay every month. However, penal damages have been imposed for delayed remittance for the period from 07/2000 to 11/2013 taking the amount due, right from 07/2000 itself, whereas the amounts due every months from 07/2000 to 11/2013 was remitted in one installment in 11/2013. As against this, the respondent has reckoned 3599 days delay for total remittance and calculated the penal interest, which according to the petitioner, is not correct. In these circumstances, the petitioner submitted an application dated 27.10.2014, which was received by the respondent on 28.10.2014 in Form 9 under section 7B of the Act for review of the said order and the said review application is pending. Since the respondent is threatening to take coercive action like freezing of the account, attachment of the movable and immovable properties of the petitioner pending consideration of the review application filed by him, the petitioner has approached this court.

4. Ms.V.J. Latha, learned Standing Counsel appearing for the respondent submitted that the review application filed by the petitioner itself is not maintainable. However, this can be raised before the respondent at the time of arguing the review application.

5. Having regard to the submissions made by the learned counsel on either side and also taking into consideration the limited prayer sought for in the writ petition, without expressing any opinion with regard to the merits of the case, I direct the respondent to dispose of the review application dated 27.10.2014 filed by the petitioner on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. Until final orders are passed in the review application, the respondent is directed not to proceed with any coercive action pursuant to the order dated 16.9.2015.

With this observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Rj

To

The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Sub- Regional Office,
Sree Complex, No.18, Madurai Road,
Tiruchirappalli - 620 008.

1 cc to Ms.Radha Gopalan ,Advocate, SR.No.16377
1 cc to Ms.V.J. Latha,Advocate, SR.No.16800

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pmk.26.3.2015



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