

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No. 9796 of 2015

Tindivanam Agricultural Producers' Co-operative
Marketing Society Limited, E. 1442,
Rep by its Secretary
No. 14, Muslim Street,
Tindivanam 604 001,
Villupuram District.Petitioner

Vs.

Employees Provident Fund Organization
Rep by its Assistant Provident Fund Commissioner
Sub-regional Office
Sree Complex, 'D' Block,
No. 18, Madurai Road,
Trichy 620 008.Respondent

This petition is filed under Article 226 of The Constitution of India praying to issue a writ of certiorari to call for the records from the respondent quash the order of the respondent dated 29.12.2014 bearing No. TN/SRO-TRY/PDC/C-21/32330/14B/PROC./2014 and order of the respondent dated 29.12.2014 bearing No. TN/SRO-TRY-PDC/C - 21/32330/7Q/PROC./2014.

For Petitioner : Mr.Balan Haridas

For Respondent : Mr.K.Gunasekar, Senior Central Govt.
Standing Counsel

ORDER

Heard Mr.Balan Haridas, the learned Counsel for the petitioner and Mr.K.Gunasekar learned Senior Central Government Standing Counsel appearing for the respondent and with the consent of either side, the writ petition itself is taken up for final disposal at the admission stage.

2. The petitioner as a Co-operative Society registered under the Tamil Nadu Co-operative Societies Act, 1987, has filed

the present writ petition and challenged the proceedings of the respondent under Section 14(B) of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, hereinafter referred to as 'The Act'.

3. Learned counsel for the respondent raised a preliminary objection as regards the maintainability of the writ petition at this juncture. Though, at the time when the writ petition was filed during March, 2015, there was no Presiding Officer in the Appellate Tribunal, however as of now, there is a Presiding Officer thereon and therefore the petitioner has to prefer an appeal against the impugned order. The challenge under the impugned proceedings is primarily on the ground on violation of the principles of natural justice and not on the merits of the claim. The respondent issued a summons dated 11.12.2014 for attending the enquiry on 18.12.2014.

4. It is the definite case of the petitioner that despite such a communication was received by them only on 17.12.2014 and immediately by registered post on the very same day they sent a letter to the respondent requesting time and the receipt of the said letter was acknowledged by the officer of the respondent on 19.12.2014, without reference to the said request made by the petitioner, the impugned order, dated 29.12.2014 has been passed by the respondent. Therefore, it is stated that the petitioner should have been afforded an opportunity of hearing before computing the damages payable.

5. On perusal of the documents placed before this Court in the typed set of papers, it is seen that the petitioner has sent communication to the office of the respondent. However, the said communication has reached the office only on 19.12.2014, i.e. after the date of hearing fixed for enquiry i.e. 18.12.2015. Be that as it may, this Court thinks that the petitioner should be afforded an opportunity of hearing before the concerned authority and raise all the points and it would be appropriate for the authority to pass orders on merits and therefore, whether the petitioner has primarily sent a communication or not, the petitioner being an Agricultural Producers' Co-operative Marketing Society may be afforded one more opportunity.

6. Accordingly, the impugned order, dated 29.12.2014, insofar as computation of the damages payable to the petitioner is concerned, is set aside and matter is remanded back to the respondent for fresh consideration. The respondent shall issue a fresh summons for enquiry in which the petitioner shall participate and produce all supporting documents on record and thereafter, the respondent shall pass reasoned orders on merits

and in accordance with law.

With the above direction, the present writ petition is disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/
ASSISTANT REGISTRAR (CCC)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

rms/kal

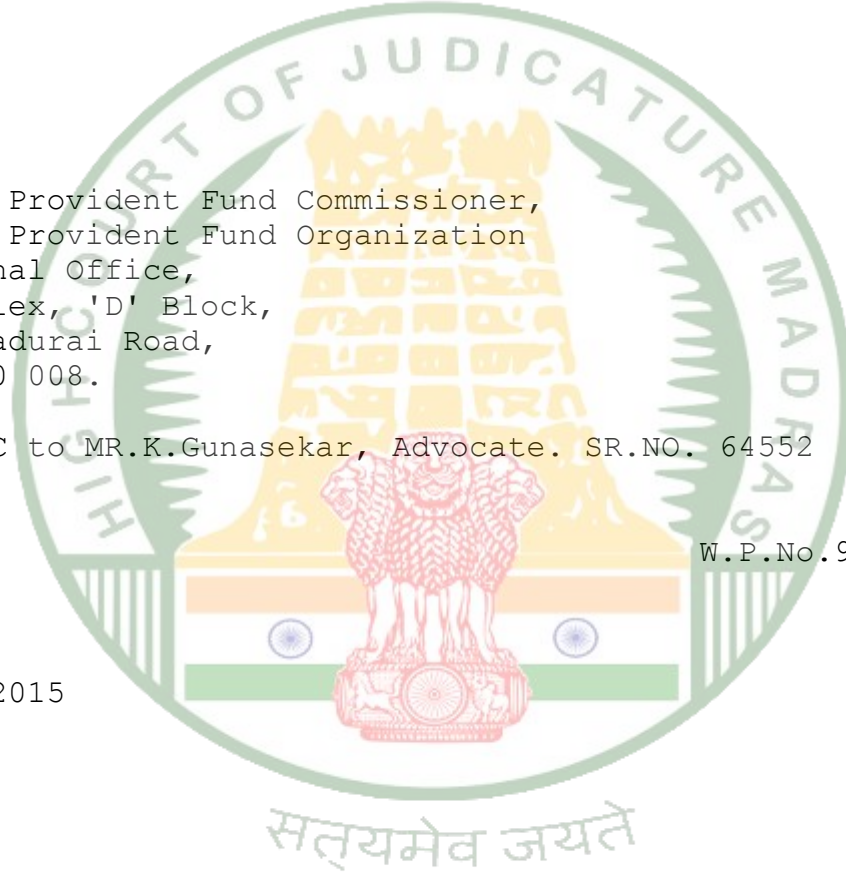
To

Assistant Provident Fund Commissioner,
Employees Provident Fund Organization
Sub-regional Office,
Sree Complex, 'D' Block,
No. 18, Madurai Road,
Trichy 620 008.

+1 CC to MR.K.Gunasekar, Advocate. SR.NO. 64552

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CO-GJ
JD 15/12/2015



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