

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 29.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.11532 of 2016 &
W.M.P.No.9956 of 2016

M/s.Palayapalayam ASCS Limited,
Palayapalayam Post,
Sirkazhi Taluk,
Nagapattinam District,
Rep. by its Secretary,
N.Rangasamy ... Petitioner

Versus

The Assistant Provident Fund Commissioner (PDC),
Sub Regional Office,
P.B.No.588, Sree Complex,
D Block No.18, Madurai Road,
Tiruchirappalli - 620 008.
Tamil Nadu. ... Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, to call for the records in proceedings TN/SRO-TRY/PDC/C-34/11786/7Q PROC/2015, dated 23.11.2015 on the file of the respondent herein and quash the same.

For Petitioner : Mr.S.Sadasharam

For Respondent : Mrs.Meenakshi
CGSC

O R D E R

Heard Mr.S.Sadasharam, learned counsel appearing for the petitioner and Mrs.Meenakshi, learned Central Government Standing Counsel, who has accepted notice on direction issued by this Court. With the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2. The petitioner's challenge to the impugned proceedings is on the sole ground that the petitioner has not been afforded reasonable opportunity to place all materials. Prima facie, on

a perusal of the impugned proceedings, it is seen that though the Secretary of the petitioner Society has appeared before the respondent, but the grievance is that the contentions raised by them were not considered while passing the order. If the petitioner has raised certain contentions, the respondent while demanding interest under Section 7Q of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 should accord reasons as to why the contentions raised by the petitioner are not justifiable and why the demand is sustainable. However, this is not evident from the impugned order. It is a settled legal position that when the impugned order is tested before this Court, it has to stand based on the reasons assigned therein and fresh reasons cannot be substituted by way of a counter affidavit. Therefore, on the said ground alone, this Court is inclined to grant a relief to the petitioner. However, this Court is not inclined to quash the impugned proceedings on the grounds raised by the petitioner.

3. In the light of the above, while rejecting the prayer to quash the impugned proceedings, there will be a direction to the petitioner to treat the impugned proceedings as if it is a show-cause notice and submit their reply / objections in writing to the respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of such reply / objections, the respondent shall consider the same and pass a speaking order within a period of two weeks thereafter.

Accordingly, the above Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.
r n s

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

The Assistant Provident Fund Commissioner (PDC),
Sub Regional Office,
P.B.No.588, Sree Complex,
D Block No.18, Madurai Road,
Tiruchirappalli - 620 008.
Tamil Nadu.

+ 1 cc to Mr.S.Sadasharam, Advocate, SR 19329

ad(co)
prk31/3

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