

THE HONOURABLE MR JUSTICE SURESH KUMAR KAIT

W.P.No.10409 of 2016

ORDER

Vide order dated 01.04.2016, this Court issued rule nisi in the present writ petition and thereafter, respondent Nos.2 and 4 have been served with notices. However, none appeared on their behalf. Therefore, this Court has no option to dispose of the present writ petition.

2. Vide present writ petition, petitioner seeks mandamus declaring the inaction of the respondents in implementing Employees Provident Fund benefits to the petitioner and other workers, who are working in Giddalur and other places in Prakasam District, under the provisions of Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (for short 'the Act').

3. Learned counsel appearing on behalf of the petitioner submits that the act of the respondents mentioned above is arbitrary and violative of Articles 14,16 and 21 of the Constitution of India and the provisions of the Act. He further submits that the petitioner and other workers are entitled to the benefits under the provisions of the Act and that under Section 6 of the Employees Provident Fund Act. The contribution which can be paid by the employer shall be 10% of basic wages and employees' contribution should be equal to the employer's contribution apart from the contribution towards pension and the Employees' Deposit Linked Insurance Scheme. He further submits that under the Employees' Provident Fund Scheme, 1952, detailed procedure has been laid down and Rules have been made for making contribution and if the employer makes default in recovering contributions and sending the same to the concerned authority, the employer is

liable to pay damages and interest. Learned counsel further submits that despite the communication dated 23.12.2013, by the Regional Provident Fund Commissioner, Hyderabad to the Principal Secretary to the Government of Andhra Pradesh, Agriculture and Cooperation Department, respondent No.4 has not taken any steps to get the provisions of the Act implemented in favour of the petitioner and other workers.

4. As stated by the petitioner in the writ petition that he has put in more than 30 years of service in Sericulture Department without any social security benefits like employees provident fund. The second respondent is under a statutory obligation to extend the benefit of the provisions of the Act and in fact, the Employees' Provident Fund Organization, Kadapa, had covered the sericulture workers working in Palamaneru Division, Chittoor District, whereas the petitioner and other workers have been deprived of the same though they are similarly situated and discharging the same duties as that of sericulture workers of Palamaneru under the control of the same employer. The 3rd and 4th respondents paid Provident Fund Contributions to Palamaneru workers as is established from G.O.Rt.No.1212 dated 05.10.2013 of 3rd respondent and other proceedings of respondents 2 to 4. Respondents 3 and 4 having paid P.F. Contributions to Palamaneru workers through communication dated 05.10.2010, which is at page 27(Ex.P9) of the writ petition, failed to apply the same in case of the petitioner.

5. Despite the representations made by the petitioner dated 12.03.2015 and 09.03.2016, the second respondent has not taken any decision. It shows that 2nd and 4th respondents are not

serious about the benefits of the workers, due to which, their right to life has seriously effected and the petitioner and other workers are deprived of not giving any social security benefits after retirement.

6. In view of the above discussion, I hereby direct respondents 2 to 4 to take decision immediately and implement the Employees Provident Fund Benefits and other benefits provided under the Act. If required, in complying with the direction of this Court, the respondents are at liberty to conduct an enquiry under the provisions of the Act and quantify the amounts to be paid to the petitioner by following the procedure laid down under the Act. The said exercise shall be completed within three months from today.

7. In view of the above direction, the Writ Petition is disposed of. I hereby declare that if the petitioner is aggrieved by the action or inaction of the respondents, he may approach the appropriate form for redressal of his grievance. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

SURESH KUMAR KAIT, J

10th August, 2016

Note:

Issue CC tomorrow.

(Bo)

sj