

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.30415 of 2014

K.Selvaraj

.. Petitioner

Vs.

1.The Divisional Manager,
TANTEA, Kotagiri Division,
S.Kaikatti (Po), Kotagiri,
The Nilgiris - 643 217.

2.The Assistant Provident Fund
Commissioner,
Bhavishyanidhi Bhavan,
P.B.No.3875, Dr.Balasundaram Road,
Coimbatore - 641 018.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of mandamus directing the respondents to set right the mistake that they have committed in accumulating the E.P.F. amount of the petitioner for the period of 1989 to 1990 and pay all terminal benefits with statutory interest and along with damages for the delay that they have committed to the petitioner.

For Petitioner .. Mr.K.Thilageswaran

For Respondents.. Mr.Anand
for M/s.T.S.Gopalan and Co., for R1
Ms.R.Meenakshi,
CGSC for R2

ORDER

The petitioner has approached this Court seeking the following relief:

to issue a writ of mandamus directing the respondents to set right the mistake that they have committed in accumulating the E.P.F. amount of the petitioner for the period of 1989 to 1990 and pay all terminal benefits with statutory interest and along

with damages for the delay that they have committed to the petitioner.

2.The petitioner was working as a labourer in the first respondent Corporation. He was transferred to Devala Tea Division and thereafter transferred to Kothagiri Tea Division. While he was working at Devala Tea Division, he was given Employees Provident Fund Account No.TN/21011/265. When he was transferred to Kothagiri, which was a separate division, he was allotted a fresh EPF Account No.TN/9078/810. After his transfer, an application was submitted to the Employees Provident Fund Organisation for merger of the two accounts of the petitioner. However, while merging the accounts accumulated in the account of the petitioner which was wrongly transferred to one D.Selvaraj's A/c. No.TN/9078/1961. The error was committed by the staff of the Kothagiri Tea Division. This error was not initially noticed but it came to light only after D.Selvaraj retired from service and withdrew the amount standing to his credit towards the provident fund.

3.In view of the above mistake occurred, the amount of Rs.23,551/-, which was due to the petitioner, could not be paid on retirement of the petitioner. The petitioner retired from service in December 2013. Only after retirement, the petitioner came to know that the said amount had been mistakenly transferred to another person. In the said circumstances, the petitioner had been making representations to the management for disbursal of the amount towards provident fund. However, no action was forthcoming from the respondents towards the settlement of the dues. In the said circumstances, the petitioner is before this Court seeking the issue of mandamus.

4.Upon notice, Mr.Anand, learned counsel entered appearance on behalf of the first respondent and filed counter affidavit. In the counter affidavit, it was admitted that due to the mistake occurred in the Kothagiri Tea Division, the amount due to the petitioner had been wrongly transferred to another employee D.Selvaraj and because of that fact, the petitioner could not be settled provident fund at the time of retirement.

5.This Court has considered the submissions of the learned counsels appearing for the parties and is of the view that the poor employee cannot be deprived of his right because of the fact that the error has been committed by the staff of Kothagiri Tea Division. Ultimately, the management is responsible for making good the payment towards provident fund, which is a statutory obligation and therefore, the non-payment of the amount in question to the petitioner is without any justification. Although the petitioner retired in 2013, this matter has been dragged for almost four years without settling

the amount to the petitioner. The petitioner had been put to undue hardship in view of the non-settlement of the amount due to him. In the above circumstances, this Court has no hesitation in allowing the writ petition. The first respondent is directed to deposit a sum of Rs.23,551/- within a period of four weeks from the date of receipt of a copy of this order with the second respondent and the deposit shall carry interest as admissible under the Rules. On such deposit, the same shall be paid to the petitioner within a period of four weeks thereafter.

6.The writ petition stands allowed on the above terms. No costs.

Sd/--
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mmi

To

- 1.The Divisional Manager,
TANTEA, Kotagiri Division,
S.Kaikatti (Po), Kotagiri,
The Nilgiris - 643 217.
- 2.The Assistant Provident Fund
Commissioner,
Bhavishyanidhi Bhavan,
P.B.No.3875, Dr.Balasundaram Road,
Coimbatore - 641 018.

+1cc to Mr.K.Thilageswaran, Advocate, S.R.No.68527
+1cc to Mr.R.Meenakshmi, Advocate, S.R.No.67867
+1cc to Mr.T.S.Gopalan & Co, Advocate, S.R.No.67675

WEB COPY

W.P.No.30415 of 2014

BR(CO)
GN(27/10/2017)