

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.12.2017

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.26700 of 2017

and

W.M.P.No.28428 of 2017

and

W.M.P.No.31724 of 2017

Tamil Nadu Generation and
Distribution Corporation Ltd
(formerly known as Tamil Nadu
Electricity Board)
Hydro Project
955, E.V.N. Road,
Erode - 638 009 Rep.by its
Superintending Engineer/Civil

..Petitioner

vs

1.The Regional Provident Fund Commissioner,
Office of the Regional Provident
Fund Organisation
S.J.Plaza, Swarnapuri, Salem - 636 004.

2.The Asst Provident Fund Commissioner (COMP)
Regional Office,
Employees Provident Fund Organization,
S.J.Plaza, Swarnapuri, Salem - 636 004.

3.Secretary, Tamil Nadu Electricity
Workers Federation,
Hydro Project,955, E.V.N. Road,
Erode - 638 009.

4.Secretary, TNEB Employees Union(INTUC)
Hydro Project,955, E.V.N. Road,Erode - 638 009.

5.Secretary, TNEB WORKERS Progressive Union
Hydro Project,955, E.V.N. Road,
Erode - 638 009.

6. Secretary, CITU
Hydro Project, 955, E.V.N. Road,
Erode - 638 009.

7. Secretary, TNEB ACCOUNTS & Executive Staff Union,
Hydro Project, 955, E.V.N. Road,
Erode - 638 009.

8. Secretary, TNEB Uzhaipaalar Sangam,
Vairam Plaza, Siruthaiyoor,
Lalgudi Post, Trichy District - 621 601.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorified Mandamus, calling for the records of the 2nd Respondent in Proceedings No. CB/RO/SLM/COMP-II/96058/ED-III/2017 dated 04.09.2017, quash the same, direct the 1st respondent to entertain the review application of the Petitioner in Letter No. 437/Adm.1/Adms./F.EPF Case/2017-7 dated 30.08.2017, further direct the Respondents to claim contribution only in respect of identifiable employees.

For Petitioner : Mr. A.L. Somayaji, Senior Counsel
for M/s. T.S. Gopalan and Co.

For Respondents: M/s. R. Meenakshi for R1 & R2

O R D E R

The order of the Assistant Provident Fund Commissioner, issued in proceedings dated 04.09.2017 is under challenge in this writ petition and further, direction is sought for to the 1st respondent to entertain the Review application submitted by the writ petitioner in Letter No. 437/Adm.1/Adms./F.EPF Case/2017-7 dated 30.08.2017.

2. Mr. A.L. Somayaji, learned senior counsel appearing on behalf of the writ petitioner contended that the earlier round of litigations by the very same writ petitioner, challenging the summons issued by the respondents under Section 7A of the EPF Act was dismissed by the Hon'ble Division Bench of this Court and the same was confirmed by the Hon'ble Supreme Court of India. However, certain vital grounds raised by the writ petitioner in respect of their eligibility raised in the Review applications were not considered on the ground that the writ petitioner had lost their battle before the Apex Court of India. The grievance of the writ petitioner is that the grounds raised by them in the Review Application were not adjudicated by providing adequate opportunity contemplated under the procedures.

3. Thus, the senior counsel is of the view that an opportunity is required for the writ petitioner to submit their explanation/objections and documents so as to place certain factual aspects before the competent authority.

4. The learned counsel appearing on behalf of the respondents opposed the contentions by stating that the Review order impugned in this writ petition was passed in accordance with the Act and Rules and there is no infirmity in the order. This apart, the opportunity was given to the writ petitioner and only after providing the opportunity, the final order was passed in the Review application. Thus, one more opportunity is unnecessary and this Court cannot encourage repeated hearings of the Review applications which was already decided by the competent authority in accordance with the Act and the Rules.

5. Considering the arguments advanced both by the learned senior counsel and the learned counsel for the respondents, this Court is of the opinion that no doubt, a final order in the Review application had been passed by the competent authorities in proceedings dated 04.09.2017. However, the arguments advanced by the learned senior counsel that the certain grounds raised by the writ petitioner was not considered on account of the fact that the earlier round of litigations went against the writ petitioner. Thus, there is every reason to believe that adequate opportunity was not provided to the writ petitioner to put forth their contentions and documents before the competent authority, while considering the Review application.

6. This being the factum of the case, it is preferable to remand the matter for fresh adjudication, after providing the reasonable opportunity to the writ petitioner to submit their grounds and additional grounds, if any. Accordingly, the order impugned in this writ petition passed by the 2nd respondents in Proceedings No.CB/RO/SLM/COMP-II/96058/ED-III/2017 dated 04.09.2017 is quashed and the matter is remitted back to the respondents to reconsider all the issues by providing opportunity to the writ petitioner and thereafter, pass final orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

7. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

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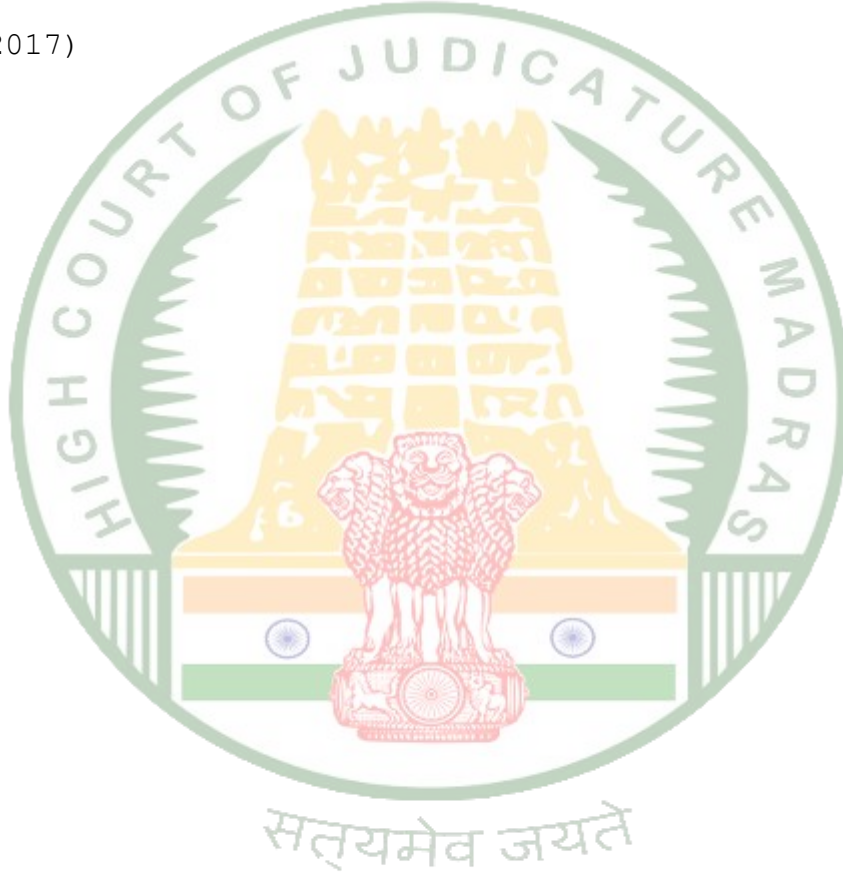
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Lalgudi Post, Trichy District - 621 601.

+ 1 cc to M/s. T.S. Gopalan and Co., Advocate SR.86714

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AD(CO)
EU(28/12/2017)



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