

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2017

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.Nos.28527 to 28529 and 26226 of 2017

1. Katpadi Industrial Institute,
Rep. By its Director,
P.B.No.705, No.20,
Chittoor Road,
Katpadi - 632 007.

... 1st petitioner in W.P.Nos.28527 to 28529/17

2. CSI Diocese of Vellore,
Rep. By its Hon.Secretary,
Rev.H.Sharma Nithiyanandham,
3/1A, Anna Salai,
Vellore - 632 001.

... 2nd Petitioner in W.P.s 28527 to 28529/2017.

... Petitioner in W.P.No.26226/2017

-vs-

1. Employees' Provident Fund Organisation,
Sub Regional
Rep. By its Regional Provident Fund Commissioner,
Regional Office,
37, Royapettah High Road,
Opposite Swagat Hotel,
Chennai - 600 014.

2. Assistant Provident Fund Commissioner,
Employees Provident Fund Organization Office S-1,
Phase-III, TNHB, Sathuvachari,
Vellore - 632 009. .. Respondents 1 & 2 in all Wps

3. The Punjab National Bank,
Rep. By its Manager,
Long Bazar, Vellore.

4. Katpadi Industrial Institute,
Rep. By its Director,
P.B.No.705, No.20,
Chittoor Road,
Katpadi - 632 007.

.. Respondents 3 & 4 in W.P.No.26226/17

Prayer in W.P.No.28527/17: Writ Petitions filed under Article 226 of the Constitution of India seeking a writ certiorarified mandamus to call for the records in pursuant of the order in Ref.Nos.TB/VLR/38023/SDC/2016, dated 14.07.2016 and 15.07.2016, and the clarificatory order in Ref.No.TB/VLR/38023/PDC/2017/2946, dated 01.11.2017 passed by the second respondent and quash the same and consequently direct the second respondent to re-determine the interest and damages in accordance with the provision of the EPF Act.

Prayer in W.P.No.28528/17: Writ Petitions filed under Article 226 of the Constitution of India seeking a writ certiorarified mandamus to call for the records connected with the impugned order No.TB/VLR//38023/SDC/2017-18/716, dated 15.06.2017, passed by the second respondent and quash the same and consequently direct the second respondent to re-determine the interest in accordance with the provision of the EPF Act.

Prayer in W.P.No.28529/17: Writ Petitions filed under Article 226 of the Constitution of India seeking a writ certiorari to call for the records connected with the impugned order No.TB/VLR//38023/SDC/2017-18/718, dated 15.06.2017 passed by the second respondent and quash the same.

Prayer in W.P.No.26226/17: Writ Petition filed under Article 226 of the Constitution of India seeking a writ certiorarified mandamus to call for the records connected with the impugned order No.TN/VLR/38023/Recovery/2017/2838, dated 22.09.2017 passed by the second respondent and quash the same and consequently direct the second respondent to provide necessary / reasonable opportunity to the petitioner before taking any coercive actions against them under the Provident Fund and Miscellaneous Provisions Act, 1952, in respect of any demand against the fourth respondent.

For petitioners : Mr.P.Wilson, SC
all W.Ps for M/s.Paul and Paul
For R1&R2 in all WPs: Mr.K.Ramu, Standing Counsel

COMMON ORDER

W.P.No.28527 of 2017 has been filed by the petitioners, namely, Katpadi Industrial Institute, Katpadi, and CSI Diocese of Vellore, Vellore, seeking to quash the proceedings dated 14.07.2016 and 15.07.2016 passed by the second respondent / Assistant Provident Fund Commissioner, Employees Provident Fund Organization, Vellore, quantifying a sum of Rs.41,48,017/- and Rs.25,18,724/- respectively as damages and interest for the period from April,2013 to September, 2015. In this writ

petition, the petitioners have also challenged the impugned clarificatory proceedings dated 01.11.2017, in and by which, the second respondent stated the default period as from 12/2000 to 01/2001.

2. W.P.Nos.28528 and 28529 of 2017 have been filed by the above said writ petitioners seeking to quash the impugned proceedings dated 15.06.2017 quantifying a sum of Rs.6,99,290/- and Rs.6,99,290/- respectively as interest for the default period from March, 2015 to November, 2016.

3. W.P.No.26226 of 2017 has been filed M/s.CSI Diocese of Vellore, Vellore, seeking to quash impugned proceedings dated 22.09.2017 passed by the second respondent ordering to recover a sum of Rs.49,19,452/- from their accounts, that too without serving prior notice.

4. It is submitted by the learned Senior counsel for the petitioners that the second respondent has passed an order dated 31.07.2001 holding that the petitioners' institute are covered by Employees Provident Fund (EPF) and thereupon the second respondent had assessed a sum of Rs.9,70,210/- from August, 1982, to December, 2000. Subsequent to this, when the exemption application was moved by the petitioners, the same was rejected by the Government of Tamil Nadu. Aggrieved by this, the first petitioner filed a Writ Petition No.14439 of 2009 challenging the order dated 31.07.2001, with a consequential direction to consider the application filed by them for exemption. This Court, by order dated 16.06.2010, dismissed the said writ petition holding that the petitioner institute can avail the alternative remedy available by filing an appeal. Since the said writ petition was dismissed, the first petitioner had paid the said sum as quantified in the above said proceedings dated 31.07.2001.

5. Apart from the above, the second respondent had initiated another proceedings in the year 2014 quantifying a sum of Rs.15,55,184/- to be paid by the first petitioner for the period from January, 2001 to November, 2014, and it appears that the said sum was recovered from the accounts of CSI Trust Association by the second respondent through Syndicate Bank. Now, by way of the impugned proceedings, the second respondent passed an order quantifying a sum of Rs.41,48,017/- and Rs.25,18,724/- as damages and interest for the period from April, 2013, to September, 2015.

6. Now, the crux of the issue raised by the learned Senior counsel for the petitioners is that, without even indicating the period of default and the amount to be payable by the petitioners, the impugned order has been passed.

7. Learned standing counsel for the respondents 1 and 2 was unable to support the impugned order regarding not mentioning of default period and the calculation.

8. Thus, in view of the above stated facts and circumstances of the case, this Court, without going into the merits of the matter, remits the matter back to the second respondent, who, after affording an opportunity of personal hearing to the petitioners, shall dispose of the claim of the petitioners on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order. Needless to mention that both the parties are directed to cooperate for early disposal of the matter.

9. In fine, for the reasons stated above, W.P.Nos.28527 to 28529 of 2017 are allowed, by quashing the impugned proceedings passed by the second respondent. In view of the same, the consequential proceedings dated 22.09.2017 passed by the second respondent ordering to recover the above said sum is also liable to be set aside and accordingly, the same is set aside. Accordingly, W.P.No.26226 of 2017 is also allowed. No Costs. Connected miscellaneous petitions are also closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

rkm

+4 Ccs to Mr.K. Ramu, Advocate sr 83984.

+4 Ccs to Ms. Paul and Paul, Advocate sr 84319.

सत्यमेव जयते

W.P.Nos.28527 to
28529 and 26226 of 2017
WEB COPY

SP(18/12/2017)