

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2017

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.18536 of 2017

&

W.M.P.No.20100 of 2017

S.Sudhakaran

... Petitioner

Versus

1. The Assistant PF Commissioner (C & R)
Employees' Provident Fund Organisation,
Ministry of Labour and Employment,
Government of India, Assistant office, 37,
Royapettah High Road,
Chennai-600014.

2. The Recovery Officer,
Employees' Provident Fund Organisation,
Ministry of Labour and Employment,
Government of India, Regional office, 37,
Royapettah High Road,
Chennai-600014.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari and Mandamus calling for the records relating to the Ref.No.TN/CHN/85431/ Recovery/Regl/2017 dated 12.06.2017 issued by the 2nd respondent and quash the same and forbear the 2nd respondent from taking any coercive steps pursuant to the order dated 31.01.2017 made in No.TN/CHN/CC-1/12/TN/85431/Enf/2016 issued by the 1st respondent till the transfer of the E.P.F. Appeal No.72 of 2017 on the file of Employee's Provident Fund, Appellate Tribunal (Bengaluru) to the Central Industrial Tribunal Chennai or any other court.

For Petitioner : Mr.Pittyparthasarathy

ORDER

The notice of demand to defaulters prepared for Attachment of movable and immovable properties dated 12.06.2017 issued by the Recovery Officer of Employment Provident Fund Organisation is under challenge in this writ petition.

2. The Learned counsel appearing for the writ petitioner stated that already an earlier order of recovery was issued on 31.01.2017 for the same amount of Rs.14,00,000/- (Rupees fourteen Lakhs) and the writ petitioner has filed A.T.A.No.72/2017 before the Employees' Provident Fund Appellate Tribunal at Bangalore and the appeal was admitted and pending before the Tribunal. Meanwhile, the amendment to the Industrial Dispute Act, 1947 and Employees' Provident Fund and Miscellaneous Petitions Act, 1952 came into force and notified under the Gazette of India on 26.05.2017.

3. The learned counsel appearing for writ petitioner would contend that during the pendency of the A.T.A72/2017 before the Tribunal at Bangalore, the respondents issued the present Notice of demand dated 12.06.2017. Thus, the writ petitioner is constrained to move this writ petition by challenging the same.

4. This Court is of the view that the Industrial Tribunal at Chennai has already started entertaining the appeal against the orders passed by the authorities under the Employees Provident Fund and Miscellaneous Petitions act, 1952 and the Industrial Tribunal is functioning in Sastri Bhavan at Chennai as per the amendment. The writ petitioner has to approach the Industrial Tribunal constituted under Section 7D of the Industrial Disputes Act. Hence, the remedy lies before the Industrial Tribunal in respect of the grievances set out in this writ petition. Thus, this Court is unable to appreciate the filing of the present writ petition under Article 226 of the Constitution of India, since, the appropriate remedy is available before the Industrial Tribunal. Further, it is for the writ petitioner to initiate appropriate steps to redress his grievances under the provisions of the Act.

5. Accordingly, this Court is not inclined to consider the merits set out in this writ petition and the writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant PF Commissioner (C&R)
Employees' Provident Fund Organisation
Ministry of Labour and Employment
Government of India, Assistant office, 37,
Royapettah High Road,
Chennai-600 014.
2. The Recovery Officer
Employees' Provident Fund Organisation
Ministry of Labour and employment
Government of India, Regional office, 37,
Royapettah High Road,
Chennai-600 014.

+1cc to Mr.Pittyparthasarathy, Advocate, S.R.No.51838

W.P.No.18538 of 2017
and
W.M.P.No.20100 of 2017

AR J
CA(28/08/2017)



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