

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.No.5011 of 2018

R.Manoharan

.. Petitioner

Vs.

1.The Secretary to the Government
Minister for Labour and Employment
Government of India, Shram Shakti Bhawan
New Delhi - 110 001

2.Central Provident Fund Commissioner and
The Additional Central Provident
Fund Commissioner
Central Office, EPFO, Bhikaji Cama Place
New Delhi - 110 066

3.The Additional Central
Provident Fund Commissioner
Zonal Office, EPFO
Coimbatore - 641 018

4.The Employees Provident Fund Organisation
No.37, Royapettah High Road
Chennai - 600 014

5.The Additional Central Provident Fund Commissioner
No.37, Royapettah High Road
Chennai - 600 014

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for a Writ of Mandamus, directing the respondents 1 to 3 to appoint Presiding Officer in the Central Government Industrial Tribunal, Chennai as per petitioner representation dated 05.01.2018.

For Petitioner : Mr.S.Gunalan

For Respondents : Mr.A.Kumaraguru,
Senior Central Govt. Standing
Counsel for R1 and R2

For Respondents 3 to 5: No Appearance

ORDER

(Order of the Court was made by S.MANIKUMAR, J.)

Instant public interest litigation has been filed for a mandamus, directing the respondents 1 to 3, to appoint a Presiding Officer in Central Government Industrial Tribunal, Chennai, as per the representation of the petitioner dated 05.01.2018.

2. Petitioner is a practising advocate, in Central Government Industrial Tribunal cum labour court, at Chennai. Petitioner has submitted that he has filed an appeal under Section 7-i of EPF Act before the Central Government Industrial Tribunal, Chennai and the appeal has been registered in the Tribunal as EPFA No.476/2018.

3. It is further submitted by the petitioner that the Central Government Industrial Tribunal, Chennai, informed the petitioner that the case has been posted on 03.05.2018, for further proceedings, subject to the appointment of a Presiding Officer. EPFO officials are insisting the establishment to submit a stay order copy. If not they intend to initiate action under Section 8F of EPF Act, by attaching movable and immovable properties of the management, the management would be put to hardship.

4. It is the further contention of the petitioner that he has given representations dated 05.01.2018 on 08.01.2018 to the respondents 1 to 3, to direct the authorities of EPFO not to take any coercive step, in respect of appeals filed in Central Government Industrial Tribunal, Chennai and notice has been issued to the Employees Provident Fund Organization.

5. Petitioner has further submitted that the High Court of Punjab and Haryana Bench in the case of M/s.Arihand Threads Ltd vs. Union of India & Ors held that coercive measures taken up by the department to recover their demands from the company, whose appeal had not come up for hearing, due to non appointment of the Presiding Officer of appellate tribunal, without permitting exhaustion of a statutory remedy, is an unfair practice, and the petitioner company therein was hence directed to file an appeal and stay application and pending the decision, the recovery officer would not effect recovery demand.

6. Learned counsel for the petitioner, further submitted that the Hon'ble Supreme Court of India, on 02.11.2015, in the case of M/s.Tasty Nut Industries vs. Union of India and others held that no coercive steps shall be taken, in respect of the cases, which are required to be preferred, before the southern tribunal, to be situated at Bengaluru, for there is no authority who can take up the matter for grant of interim relief. He further submitted that there is no authority in the Central Government Industrial Tribunal, to take up the matter

for granting interim relief and hence the petitioner has filed the instant writ petition.

7. Based on the above averments, learned counsel for the petitioner made his submissions and in support of his submissions, relied on the decision of the Hon'ble Supreme Court in Rojer Mathew vs. South Indian Bank Limited and ors (SLP (C) No.15804 of 2017 dated 07.05.2018.

8. The writ petition came up for admission before the Hon'ble First Bench on 02.04.2018, which ordered as hereunder:

"The matter is adjourned till 16.04.2018.

The learned Additional Solicitor General is requested to look into the grievance agitated in the writ petition in the meanwhile."

9. Subsequently, instant writ petition came up for further hearing before this court on 05.10.2018 and we passed the following order:

"Though instant writ petition has been filed for a writ of mandamus, directing the respondents 1 to 3, to appoint the Presiding Officer, in the Central Government Industrial Tribunal, Chennai, as per the petitioner's representation, dated 5/1/2018, learned counsel for the petitioner submitted that in a similar matter, the Hon'ble Supreme Court has passed a consolidated order somewhere in March 2018.

2. Post on 08.10.2018. In the meanwhile, Mr.A.Kumaraguru, learned Senior Central Government Standing Counsel for the respondents 1 and 2, is directed to get instructions, regarding the steps taken, to appoint Presiding Officer-2, in Central Government Industrial Tribunal, Chennai."

10. In the light of the orders referred to above, we only observe that the II Bench of the Central Government Industrial Tribunal, Chennai, be made functional.

11. With the above directions, the writ petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

Asr

To

1.The Secretary to the Government

Minister for Labour and Employment

Government of India, Shram Shakti Bhawan

<https://hcservices.ecourts.gov.in/hcservices/>

New Delhi - 110 001

2. Central Provident Fund Commissioner and
The Additional Central Provident
Fund Commissioner
Central Office, EPFO, Bhikaji Cama Place
New Delhi - 110 066

3. The Additional Central
Provident Fund Commissioner
Zonal Office, EPFO, Coimbatore - 641 018

4. The Employees Provident Fund Organisation
No.37, Royapettah High Road
Chennai - 600 014

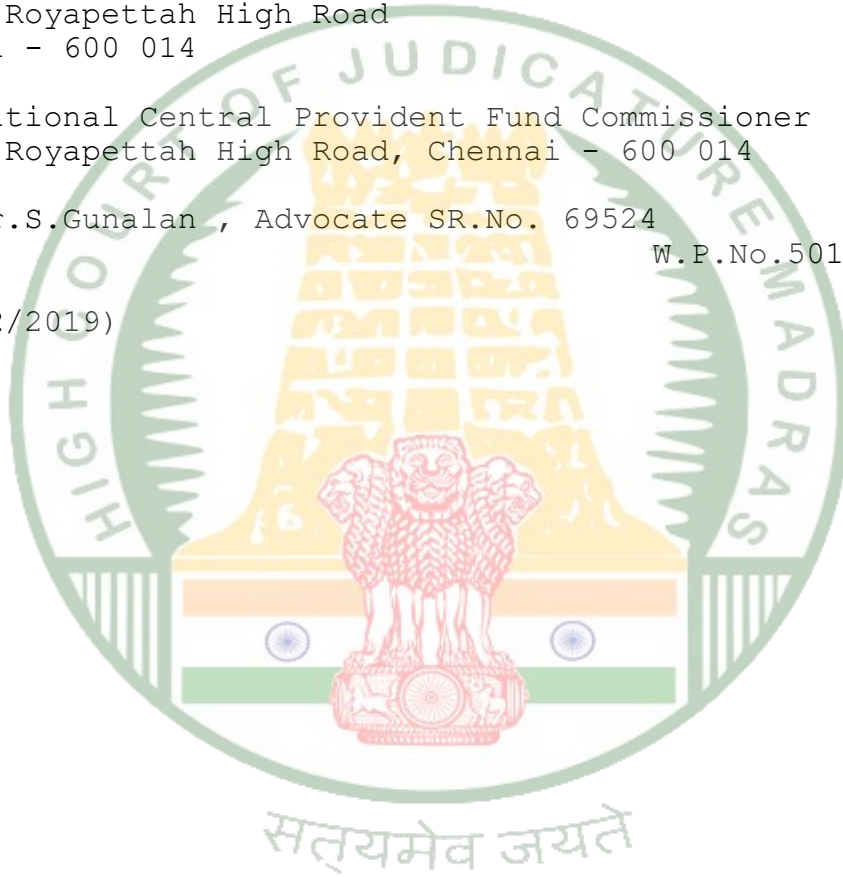
5. The Additional Central Provident Fund Commissioner
No.37, Royapettah High Road, Chennai - 600 014

+lcc to Mr.S.Gunalan, Advocate SR.No. 69524

W.P.No.5011 of 2018

rgn

A.SK(04/12/2019)



WEB COPY