

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 18.1.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.1787 of 2017
and
C.M.P.No.22561 of 2017

M/s.Prasanna
Partnership Firm
rep. by its Partner
D.Venkadapathy,
6 Nehru Nagar, Civil Aerodrome Post,
Coimbatore 641 014. Appellant/2nd Respondent

Versus

1. The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Regional Office, Dr.Balasundaram Road,
Coimbatore. ...1st Respondent/Petitioner
2. The Presiding Officer,
Employees Provident Fund Appellate Tribunal,
Ministry of Labour & Employment
Scope Minar, 4th Floor,
Core-2 Lakshmi Nagar, New Delhi. ...2nd Respondent/
2nd Respondent

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 28.3.2014 passed in W.P.No.28809 of 2011 on the file of this court.

WP.NO.28809/2011:Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari, to call for the records relating to the proceedings of 1st respondent dt 19.8.2011 in ATA No. 659 (13) of 2011 and quash the same.

For appellant : Mr.S.Gunalan
For R1 : Mr.R.Marudhachalamurthy

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the appellant and Mr.R.Marudhachalamurthy, learned counsel, who takes notice on

behalf of the first respondent.

2. The matter relates to the dispute with regard to payment of Employees' Provident Fund by the appellant herein. The writ petition was filed by the Employees Provident Fund Organisation challenging the interim relief granted to the appellant herein by the second respondent-Tribunal and thereby directing to appellant herein to deposit 40% of the demand amount.

3. On appreciating the facts and circumstances of the case, the learned Single Judge has observed in para 5 of the order thus:-

"5. Therefore, while expressing the regret regarding the manner in which the Appellate Tribunal has decided the matter, this court is inclined to dispose of the Writ Petition by affording a reasonable time to the second respondent to pay the remaining amount. Though the matter has been remanded to the Writ Petitioner Organisation by the Tribunal, the second respondent cannot agitate any new plea in the light of the letter given by the second respondent dated 3.11.2003, unequivocally agreeing to pay the demand amount of Rs.3,72,661/-. The only request made by the second respondent was that they should be permitted to remit the amount in 18 equal instalments. Nevertheless they had filed the Writ Petition for quashing the order passed under section 7B of the Act, which was dismissed by this court. Therefore, the undertaking given by the second respondent in its letter dated 3.11.2003, is binding on them. Since the second respondent has already paid 40% of the demand, there will be a direction to the second respondent to pay the remaining amount, within a period of four months from the date of receipt of a copy of this order."

4. The above observation discloses that the learned Single Judge has taken into consideration the undertaking given by the second respondent-firm by way of their letter dated 3.11.2003 and having noted that they had already deposited 40% of the amount, gave some concession for payment of the remaining amount by extending time for payment by four months.

5. In view of the above, we are of the view that the appeal does not stand to reason except to give further more time to pay the remaining instalments within a reasonable time. Accordingly, six months time from the date of receipt of a copy

of this judgment is granted for making the remaining payment in instalments. The writ appeal is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Regional Office, Dr.Balasundaram Road,
Coimbatore.
2. The Presiding Officer,
Employees Provident Fund Appellate Tribunal,
Ministry of Labour & Employment
Scope Minar, 4th Floor,
Core-2 Lakshmi Nagar, New Delhi.

+1cc to Mr.B.A.Prabu Shankar, Advocate SR.No.4666/18

+1cc to Mr.S.Gunalan, Advocate SR.No.3725/18

SSV(CO)

sm:13.3.2018

W.A.No.1787 of 2017

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