

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.06.2018

C O R A M

THE HON'BLE Mr.JUSTICE P.D.AUDIKESSAVALU

W.P.No.32548 OF 2002

and

WPMP Nos.48467 and 48468 of 2002

NEPC Tea Garden Ltd.,
Valparai, Coimbatore,
Rep. by its Managing Director.

...Petitioner

vs

- 1.The Secretary to Government,
Ministry of Labour, Govt. of India,
Shram Shakti Bhavan, New Delhi-1.
- 2.The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
Dr.Balasundaram Road, Coimbatore-18,
Rep. by Assistant Provident Commissioner.
- 3.The Central Provident Fund Commissioner,
EPFO, Bhavishya Nidhi Bhawan,
14, Bikaji Cama Place, New Delhi-66.
- 4.The Employees Provident Fund Appellate
Tribunal,
Nehru Place, New Delhi.

...Respondents

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari to call for the records relating to the order dated 27.6.2000 passed in ref.No.D8/TN/CB/691/ENF/Pol.II/2000 on the file of Regional Provident Fund Commissioner, the 2nd respondent herein and to quash the same.

For petitioner : Mr.A.V.Arun

For Respondents : Mr.G.Karthikeyan

Additional Solicitor General
of India for R1
Mr.T.R.Sundaram for R2 and R3

O R D E R

Mr.A.V.Arun, learned counsel appearing for the petitioner submits that in paragraphs 7 and 8 of the affidavit filed in support of the petition, it has been stated as follows:

"7.As aforesaid, alleging delay in the payment of PF contributions, the 2nd respondent issued orders under Section 14B, imposing damages on the petitioner company, without even issuing proper notice. Photocopies of the orders No. SED/TN/CBE/691/Pol.II/LO/2001 dt.31.8.2001 and No.SDC/TN/CBE/651/Pol.II/LO/2001 dated 23.6.01 issued under section 14B, Appeals were filed against the orders together with petitions for waiver of pre-deposit/stay as also for condonation of delay. Though the petitioner made every effort to bring up those appeals and secure stay orders thereon, it could not succeed, apparently due to the large pendency of cases in the Tribunal.

8.Since the various orders passed under Section 7A were all challenged under Section 71 before the 4th respondent as is evidenced by Exhibits P2 Series no recovery could have been possible in law. Further, on the premise that the petitioner has not obtained any stay orders on those appeals, the 2nd respondent proceeded with coercive recovery proceedings u/s 8A to 8C, 8F and Section 14. Copies of such proceedings No. TN/CB/EO/Pol.II/651/2001 dated 17.1.2001 issued to the Manager, Union Bank of India, Valparai, by the Assistant Provident Fund Commissioner, Special Damages Cell, Enforcement No.TN/Recy/Cbe/2000 dated 27.1.2000 issued to the petitioner by the Recovery Officer, Employees' Provident Fund, Coimbatore, No.D1/TN/CB/691/Enf/Pol.II/2002 dt.8.4.2002 to Assistant Provident Fund Commissioner (Recovery), Office of the Regional Provident Fund Commissioner, Coimbatore and No.TN/Recy/Cbe/691/02 dt.24.4.2002 issued by the Recovery Officer, Employees Provident Fund, Coimbatore."

2. As noticed from the aforesaid statements made in the affidavit of the petition, since the petitioner has already

filed appeals before the Statutory Authority, the petitioner cannot prosecute this writ petition simultaneously for the same relief. Hence, the writ petition is dismissed. It is made clear that it is open to the petitioner to seek interim relief before the Tribunal in accordance with law and if such application is made, the Tribunal shall consider the same and pass appropriate orders. If the appeals have already been disposed of, it is needless to state that the parties shall proceed accordingly in furtherance thereof. No costs. The connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

vri
To

- 1.The Secretary to Government,
Ministry of Labour, Govt. of India,
Shram Shakti Bhavan, New Delhi-1.
- 2.The Assistant Provident Commissioner.
Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
Dr.Balasundaram Road, Coimbatore-18,
- 3.The Central Provident Fund Commissioner,
EPFO, Bhavishya Nidhi Bhawan,
14, Bikaji Cama Place, New Delhi-66.
- 4.The Employees Provident Fund Appellate
Tribunal,
Nehru Place, New Delhi.

+ 2 ccs to Mr.T.R.Sundaram, Advocate SR.36543
+ 1 cc to Mr.G.Karthikeyan, Advocate Sr.36545

W.P.No.32548 of 2002

(CS-VI)
EU(10/07/2018)