

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2018

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.14673 of 2004
and W.M.P.No.17397 of 2004

Employees' Provident Fund
Tamilnadu Staff Union,
Reg.No.705/MDS & Recognized
Rep. by it's Secretary in General
Mr.M.V.Mukundan
37, Royapettah High Road,
Chennai - 600 014. Petitioner

Vs.

1. The Registrar of Trade Union,
O/o. The Labour Commissioner,
Teynampet,
Chennai - 6.
2. The Assistant Labour Commissioner,
O/o. The Deputy Commissioner of Labour,
Dr.Balasundaram Road,
Coimbatore - 18.
3. The Regional Provident Fund Commissioner,
No.1, Employees' Provident Fund Organization,
No.20, Royapettah High Road,
Chennai - 600 014.
4. The Central Provident Fund Commissioner,
Employees' Provident Fund Organization,
HUDCO Vishale, A4, Bhaikaji Cama Place,
New Delhi - 110 066.
5. Employees' Provident Fund Staff Union Tamilnadu
Reg.No.394/CBE
Bhavishyamidhi Bhavan
Dr.Balasundaram Road,
Coimbatore - 641 018.

.. Respondents

Prayer :- Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the 1st and 2nd respondent to take necessary action against the 5th respondent by considering the facts noted in the petitioner union's representation dated 05.03.2004.

For petitioner :Mr.S.Saravanan

For respondents 1 & 2 :Mr.N.Inbanathan
Additional Government Pleader

ORDER

This writ petition is preferred by the petitioner to directing the Registrar of Trade Union, Chennai /1st respondent and The Assistant Labour commissioner / 2nd respondent to take necessary action against the Employees Provident Fund Staff union Tamil Nadu / 5th respondent by considering the facts noted in the petitioner's union's representation dated 5.3.2004.

2. Brief case of the petitioner:

The facts of the case is that the petitioner's union registered during the year 1965 as Employees Provident fund Staff Union, Madras in registered No.79/Mds. Petitioner union was established for the welfare of the members and their employees to render help by constitutional methods. Subsequently during the month of March 1976 the union was re-registered in the name of Employees Provident Fund Staff union, Chennai with registration No.705/MDS. As per the decision of the central Board of Trustees (CBT, EPFO) of the EPF organization, only one union was accorded recognition in the region. Hence the re-organization accorded to the petitioner union was continuing from Aug.1974 to till date.

3. Heard the arguments on either side and perused the entire materials available on record.

4. The learned counsel for the petitioner submits that subsequently sub regional offices were established since there were members throughout various districts. In order to have unions functioning at various region, no objection certificate given by the petitioner union. Accordingly with the consent of the petitioner sub regional offices were established in Employees Provident fund Staff Union, Coimbatore Reg.No.394/CBE in the year 1978. Employees Provident fund Staff Union, Madurai in the year 1980. Employees Provident fund Staff Union, Trichy Reg.No.520/TRY in the year 1982. Employees Provident fund Staff Union, Tirunelveli Reg.No.733/TIN in the year 1993. The Employees Provident fund Staff Union, Salem Reg.No.863/SLM in the year 1994. Employees Provident fund Staff Union, Vellore Reg.No.972/VLR in the year 1996.

5. The Regional Offices were established entire affairs of the union was controlled by the petitioner union, which accepted mutually by the regional offices. As per the decision of Central Board of Trustees of the EPF organization only one union was accorded recognition in the region. Accordingly the petitioner

union was recognized, having majority of membership in the region of Tamilnadu region out of which more than 1400 are the members of the petitioner's union, 500 employees are the members of various union and the rest are not opted any membership to any union.

6. During the year 1999 the sub regional office at Coimbatore acted indifferently towards the welfare of the members, further the instructions of the petitioner for the welfare of the members were not heard to. Accordingly the petitioner in order to protect the innocent members and as per the decision of the federation, a state level union with the Head quarters at Chennai and branch units at SRO/SAO were formed.

7. The petitioner's union was conducted a General body meeting on 23.10.1998 to consider approval for the proposed amendments to the bye-laws and the name of the union. The petitioner union proposed to change the name of the union as Employees Provident Fund Staff Union, Tamilnadu. The same was to the 1st respondent for getting approval to the amendment of bye-laws. But the Assistant Commissioner of Labour Chenani by his letter 3.12.1998 refused to change the name of the petitioner union. The petitioner union through letter dated 7.1.1999 explained all the things getting approval of the name change of the union. Thereafter the bye-laws were suitably amended and the name of the union was changed to Employees, Provident Fund Tamilnadu Staff Union was duly accepted and approved by the 1st respondent herein under the same Registration No.705/MDS on 12.7.1999.

8. During the 2nd week of March 1999 the 5th respondent filed a writ petition No.4057 of 1999 by stating that they are recognized union and they should be invited to the bilateral/bimonthly meeting. The W.P.No.4057 of 1999 was disposed with a direction that meeting can be conveyed without the presence of the 5th respondent and further directed to make an application for re-organisation. The 5th respondent submitted their application for re-organisation through the 3rd respondent to the 4th respondent vide his letter dated 4.5.1999 to the 3rd respondent. In addition to that the employees provident fund staff union, Tirunelveli application for grant of re-organisation was also rejected by the 3rd respondent vide letter dated 11.5.1999.

9. The learned counsel for the petitioner submits that the organization application of the 5th respondent was rejected and till date no reorganization was obtained by the 5th respondent. The 3rd respondent herein vide his letter dated 28.7.1999 issued clarification to the Sub Regional Office at Coimbatore, Madurai

Tiruchy, Tirunelveli, Salem and Vellore to withdrawal of certain facilities extended to unrecognized union. As per the above letter the petitioner union alone enjoying all the facilities till date. Now in order to create confusion the 5th respondent formed union in the name and style of Employees Provident fund staff union Tamil Nadu under the SRO union Coimbatore with the registration No.394/CBE which identical is the petitioner union and which the name was already rejected by the 1st respondent to the petitioner union and mis -representation the members they are the petitioner union without registration and without getting any approval, which activity spoil the Petitioner Association reputation and the welfare of the members will be at stake and further it tantamount to cheating with the registration obtained for Coimbatore District during the year 1978.

10.The learned counsel for the petitioner submits that as per the norms of the 4th respondent only one union is recognized for a region which is supposed to represent all the sub regional /sub accounts office level as such the petitioner union was recognized during the year 1974 and also represent the SRO/SAO till date.

11.The learned counsel for the petitioner submits that the petitioner union gave an objection to the 1st respondent through their letter dated 1.3.2000 to using the name of the petitioner union. The petitioner further sent a letter dated 5.3.2004 to the 1st respondent to raise their objection of similarity name of union. The petitioner's Trichy, Coimbatore, Vellore, Salem branch unions were also sent their objections to the concern authorities to take necessary action against the 5th respondent. But till date no action has been taken.

12.The learned counsel for the petitioner submits that the petitioner union apprehends that the 5th respondent trying to collect the funds and monthly subscription fee from the members of the petition union by misrepresenting that they are 1400 members in and around Tamilnadu region and their monthly salary gives on the end of the every month .

13.Though the Petitioner Association has objecting the 5th respondent Union by giving various representation finally on 05.03.2004, but none of the representation was consider by the respondents 1 to 4 for the reasons best known to them. When the respondents 1 to 4 have received the objection and representation, it is the bounden duty of them to consider the

petitioner's representation by giving fair opportunity to both the petitioner as well as the 5th respondent Union. Therefore, the petitioner Union has made out the case before this Court and hence, I am inclined to pass the following orders.

14. In the result:

(a) this Writ Petition is allowed;

(b) the respondents 1 to 4 are hereby directed to conduct an enquiry by considering the petitioner Union dated 05.03.2004 by issuing notice to both the petitioner Union and the 5th respondent Union by conducting enquiry and to pass appropriate orders;

(c) the said exercise shall be done within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

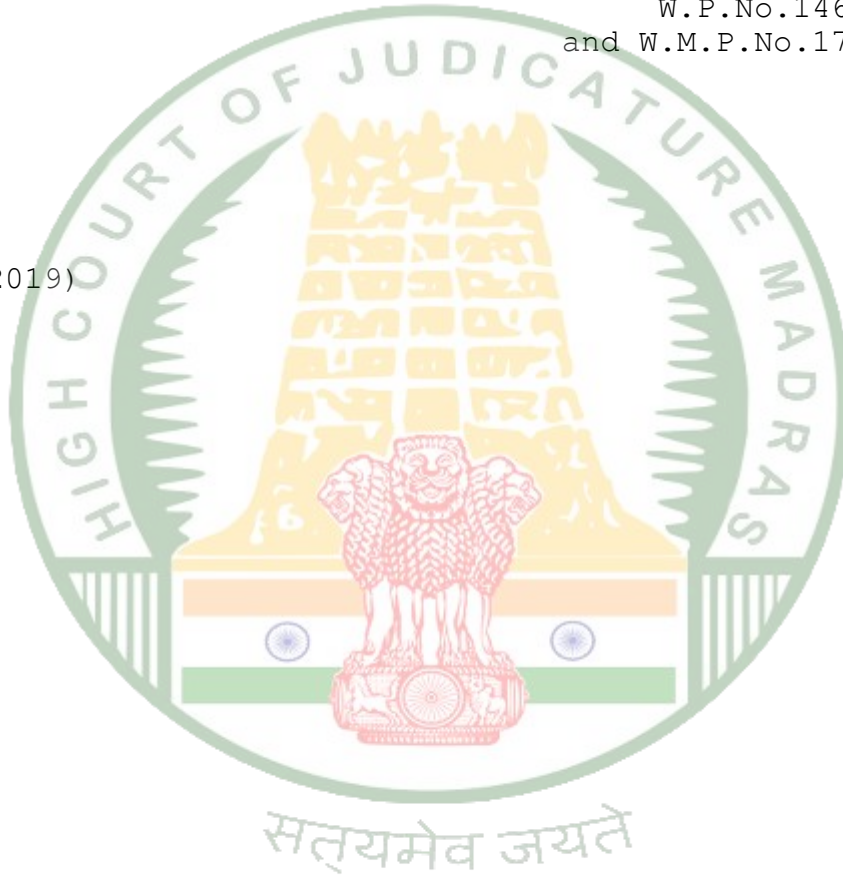
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+1 CC to Govt. Pleader sr 40927.
+1 CC to M/s.Saravanan Advocate sr 39995.

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SP(25/03/2019)



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