

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.NO.29257 of 2018
and W.M.P.Nos.34183 and 34188 of 2018

M/s.Dong Sung Automative India Pvt. Ltd.,
112, Singadivakkam Village and Post
Kancheepuram 631 502, rep.by its Managing Director
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Petitioner

Vs

1. The Regional Provident Fund Commissioner
Employees' Provident Fund Organization
Sub Regional Office, S-1, Phase III, TNHB
Sathuvachari, Vellore 632 009.
2. The Assistant Provident Fund Commissioner (SDC)
Employees Provident Fund Organization
Sub Regional Office, S-1 Phase III, TNHB
Sathuvachari, Vellore - 632 009.
3. The Manager, Indian Overseas Bank
SIPCOT Project Office, SIPCOT Project Office
SIPCOT Industrial Park, Irungattukkottai
Sriperumbudur.
4. The Manager, Bank of India
Sriperumbudur Branch, Sriperumbudur.

Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the first respondent from proceeding any further in terms of its order dated 17.08.2018 in Proceedings NoTB/VLR/74456/SDC/2018-19/2008 passed under Section 14B of the EPF Act, till such time the appeal filed by the petitioner before the Central Government Industrial Tribunal cum Labour Court, Shastri Bhavan, Chennai 600 006 is taken up for hearing.

For Petitioner

: Mr.Haroon-Al-Rasheed
for M/s.T.S.Gopalan & Co.,

For Respondents

: Ms.Rajeni Ramadoss
for R3

O R D E R

The management has filed this writ petition, seeking a writ of mandamus forbearing the first respondent from proceeding any further in terms of its order dated 17.08.2018 in proceedings No.TB/VLR/74456/SDC/2018-19/2008 passed under Section 14B of the EPF Act, by which the management has been directed to pay a sum of Rs.37,17,316/- towards damages and Rs.17,94,522/- towards interest. This order is under challenge by filing an appeal before the Central Government Industrial Tribunal.

2. Ms.Rajeni Ramadoss takes notice on behalf of the third respondent. Heard the learned counsel for the petitioner and the learned counsel for the third respondent.

2. It is stated by the learned counsel appearing for the petitioner that the claim towards interest of Rs.17,94,522/- has already been paid and the damages, which are to be paid is under challenge by filing an appeal. It is stated that the Central Government Industrial Tribunal cum Labour Court is not functioning as of now for want of Presiding Officer and on account of the non appointment, the petitioners are not able to prosecute the case before the tribunal. During the interregnum period the respondents 1 and 2 are taking some coercive action against the writ petitioner, which is sought to be restrained by filing this writ petition.

3. Even though appeal provision is available and that has been made use of by the petitioner, it is made inoperative by the respondents 1 and 2, is the claim made by the petitioner / management. In fact, the second respondent, in his proceedings dated 11.10.2018, has directed the third and fourth respondents / Indian Overseas Bank, Irungattukkottai Branch and Indian Bank, Irungattukkottai Branch, to freeze the bank account maintained by the petitioner management in the respective banks.

4. Learned counsel for the petitioner submits that bonus has to be paid to the employees and unless the bank account is defreezed, it is not possible for them to pay the bonus to their employees.

5. Under the circumstances, as it is admitted that the Presiding Officer is yet to be appointed in the Central Government Industrial Tribunal cum Labour Court, and that the petitioner has already paid the claim of Rs.17,94,522/- towards interest, this Court is inclined to pass the following order.

6. The petitioner is directed to pay 50% of the amount of damages (50% of Rs.37,17,316/-) claimed by the respondent as per the impugned order dated 17.08.2018 within a period of two weeks

from the date of receipt of a copy of this order and the respondents 1 and 2 are directed not to initiate any coercive action till the Presiding Officer is appointed in the Central Government Industrial Tribunal cum Labour Court and the appeal filed by the petitioner management is taken up for enquiry. The bank account of the petitioner / management, maintained in the third and fourth respondent banks, shall remain de-frozen forthwith. The writ petition is disposed of accordingly. No costs. Consequently, connected W.M.P.Nos.34183 and 34188 of 2018 are closed. A copy of the deposit receipt made before the Tribunal shall be sent to all the respondents.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

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Sriperumbudur.
4. The Manager, Bank of India
Sriperumbudur Branch, Sriperumbudur.
5. The Central Government Industrial Tribunal
-cum Labour Court,
Shastri Bhavan, Chennai-06

1cc to M/s.T.S.Gopalan & Co,Advocate sr.no.75634

W.P.No.29257 of 2018
and

WMP Nos.34183 & 34188 / 2018

nr 02/11/2018