

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 03.01.2018****CORAM****WEB COPY****THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN****W.P. (MD) No.18300 of 2014****and****M.P. (MD) .No.1 of 2014**

M/s.Q.510, Savariyarpattinam Primary
Agricultural Co-operative Bank,
Now called as Q.510, Savariyarpattinam Primary
Agricultural Co-operative Credit Society,
Representated through its Secretary,
Savariarpattinam,
Kadaladi Taluk,
Ramanathapuram District.

... Petitioner

Vs.

1.The Presiding Officer,
Employees' Provident Fund Appellate-
Tribunal (Ministry of Labour &
Employment Government of India),
Scope Minar, Core-II, 4th Floor,
Laxmi Nagar, District Centre,
Laxmi Nagar, New Delhi-110 092.

2.The Assistant Provident Fund-
Commissioner,
Regional Office, Lady Doak College Road,
Chokkikulam, Madurai-625.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records on the file of the 1st respondent and to quash the portion of the order dated 18.09.2013 made in A.T.A.No.478(13)/2013 to directing the petitioner to deposit of Rs.1,00,000/- pending disposal of the appeal.

For Petitioner : Mr.C.G.Pethanaraj

For Respondents : Mr.K.Muralisankar

for R2

: No Appearance for R1

**ORDER**

Heard Mr.G.Pethanaraj, learned counsel, appearing for the petitioner and Mr.K.Murali Sankar, learned counsel, appearing for the second respondent.

2.By consent of both the parties, the main writ petition is taken up for final disposal at the stage of admission itself.

3.The petitioner is covered by the Provision of the Employees' provident Fund Act. The Authority passed an order under Section 14 (B) of the Employees' provident Fund Act for levying the damages. Questioning the same, the petitioner filed an appeal before the Employees' Provident Fund Appellate Tribunal.

4.The Employees' Provident Fund Appellate Tribunal granted an interim order subject to deposit of Rs.1,00,000/- to the second respondent. This condition is challenged in this writ petition.

5.The petitioner's contention is that directing such deposit would cause immense hardship to the petitioner. He would also contend that for levying damages under Section 14(B) of the Employees' provident Fund Act, mens rea must be shown to be in existence. In this case, there is no such finding for the order levying damages. Since prima facie case had been made out, the Tribunal ought not to have imposed the condition of deposit of Rs.1,00,000/-. I find merit in the said submission.

6.The order dated 18.09.2013 impugned in this writ petition is therefore set aside, in so far as it directs the writ petitioner to deposit a sum of Rs.1,00,000/-.

7.This Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI)



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2. The Assistant Provident Fund-
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Chokkikulam, Madurai-625.

+1cc to M/S.R.SARAVANAN, Advocate SR.No.40083.
+1cc to M/S.K.MURALI SANKAR, Advocate SR.No.40197.

W.P. (MD) No.18300 of 2014
03.01.2018
(2/2)

tsg
SDS/KKR/SAR 1/25.01.2018/3P/5C