



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2018

CORAM:

THE HONOURABLE **MR. JUSTICE G.R. SWAMINATHAN**

W.P. (MD) No. 21130 of 2017

and

W.M.P (MD) No. 17378 of 2017

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation
Regional Office, Bhavisya Nidhi Bhavan
NGO "B" Colony, Tirunelveli.

... Petitioner

Vs.

1. The Presiding Officer,
The Employees Provident Fund Appellate
Tribunal,
New Delhi.

2. M/s Vaigai Agro Products Ltd.,
rep. through Nagarajan,
Assistant General Manager,
315/1-14, Adaikalapattanam,
Alangulam TK,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the impugned order passed by the first respondent dated 08.07.2014 in ATA No.559 (13)2012 and quash the same.

For Petitioner : Mr.K.Muralisankar

For Respondents : Mr.V.O.S.Kalaiselvan for R2

For R1 : Tribunal

ORDER

The second respondent is an Establishment coming under the purview of E.P.F and M.P. Act. Following an inspection of the second respondent Establishment, proceedings under Section 7(A) of the Act were initiated. The stand of the authority is that the Establishment failed to disclose the details of the workmen engaged by the Contractor and as such no contribution was remitted in respect of such employees. An order under section 7(A) of the Act came to be passed and the Establishment filed review petition under Section 7(B) of the Act. The petition under Section 7(B) of the Act was dismissed. Aggrieved by the same, an appeal was preferred before the Tribunal. By order dated 08.07.2014, the order of the original authority was set aside and the appeal was allowed. The same is assailed at the instance of Employees Provident Fund Organisation.



2.The reasons set out in the order of the appellate Tribunal are intrinsically sound. In this case, the beneficiaries were not really identified. Therefore, the question will arise and will remain open as to who will receive the P.F. Amount and how the contribution will be disbursed among the beneficiaries. On account of the non-identification of the beneficiaries, the order impugned in the appeal was set aside. But at the same time as rightly contended by the learned standing counsel appearing for Employees Provident Fund Organisation, as per para 36 of the EPF scheme 1952, it is the duty of the employer to furnish the list of the employees. Therefore, the Tribunal was right in setting aside the order passed by the original authority on account of non-identification of the beneficiaries. But while so doing, the Tribunal ought to have remitted the matter back to the file of the original authority for fresh enquiry. In this case, such a course of action was not adopted. Therefore, on this sole ground, this Court is constrained to interfere with the order passed by the Tribunal. The order impugned in this writ petition is quashed to that extent that the matter was not remitted to the file of the original authority. It is made clear that the contentions are left open. The original authority shall take up the matter afresh and pass orders under Section 7(A) of the Act.

3.This writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

The Presiding Officer,
The Employees Provident Fund Appellate
Tribunal,
New Delhi.

+1cc to Mr.K.Muralisankar, Advocate Sr.No.51737
+1cc to Mr.V.O.S.Kalaiselvan, Advocate Sr.No.51894

SKN

VB/JC/SAR4/07/05/2018/2P/4C

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