

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 02.04.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P. NOS. 9221 & 9224 OF 2019

AND

W.M.P. NOS. 9763, 9767 & 9768 OF 2019

M/s.Lutheran Christian Bethesda Hospital
A Division of IELC Trust Association
rep. By its Administrator
Post Box No.56, Mission Compound
Ambur Taluk, Vellore District 635 802.

.. Petitioner in WP 9221/2019

M/s. I.E.L.C. Trust Association
rep. By its Administrator
Lutheran Mission Compound
K.P.Road, Nagercoil 629 001
Kanyakumari District.

.. Petitioner in WP 9224/2019

- Vs -

1. The Presiding Officer
Central Government Industrial
Tribunal-cum-Labour Court
26, Haddows Road
Sastri Bhavan, Nungambakkam
Chennai 600 006.

.. R-1 in W.P. No.9221/2019

2. The Assistant P.F. Commissioner (Compliance)
Employees' Provident Fund Organisation
Sub Regional Office
S-1, TNHB, Phase-III, Sathuvachari
Vellore 632 009.

.. R-2 in W.P. No.9221/2019

- 3.The Assistant P.F.Commissioner / Recovery Officer,
Employees Provident Fund Organisation,
S-1, TNHB, Phase-III,
Sathuvachari, Vellore - 632 009. ... R1 in WP.9224/2019

W.P. No.9221/2019 filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus directing the 1st respondent to entertain the petitioner's appeal challenging the order of the 2nd respondent dated 13.07.2017 in proceedings No.TB/VLR/10759/ENF/DIV-IV/2017-18/1804 and consequently forbear the 2nd respondent from initiating any recovery proceedings in terms of its order dated 13.07.2017.

W.P. No.9224/2019 filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus forbearing the respondent from auctioning the petitioner's property situated at Survey No.45/1, Yelagiri Hills, Tirupur taluk, in terms of proceedings No.TB/VLR/10759/RECY/2018/5278 dated 28.11.2018 and consequential proceedings No.TB/VLR/10759/RECY/240/2019/6910 dated 5.2.2019 and further direct the respondent to revoke/release the attachment of the petitioner's account Nos.2404101003025, 2404101000675 and 2404101000002 with Canara Bank, K.P. Road Branch, Nagercoil, Account Nos.7535 and 6071 of IELC Workers Provident Fund and Workers Pension Fund with Indian Bank, Womens Christian College Road, Nagercoil and Account No.14905031\43 with the Central Bank of India, Kunjan Nadar PWD Road, Nagercoil.

For Petitioner : Mr.S.Ravindran, SC, for
Mr.S.Bazeer Ahamed

For Respondents: Ms. V.J.Latha for R-2 in WP No.9221/2019
& R-1 in WP No.9224/2019

COMMON ORDER

The petitioner in W.P. No.9221/19 a Trust Association, is aggrieved by the order dated 13.7.17, passed by the 2nd respondent u/s 7-A of the Employees Provident Fund & Miscellaneous Provisions Act (for short the 'Act').

2. It is the case of the petitioner that according to the provisions of the Act, an appeal is provided u/s 7-I of the Act and the appeal has to be preferred within 60 days as per the Appellate Tribunal (Procedure) Rules, 1997 and a further period of 60 days is allowed, provided sufficient cause is shown for not filing the appeal within the first sixty days.

3. The petitioner Association has been taken over by the interim Administrator appointed by this Court, who is a retired Judge, in view of factional feud between the members of the Trust Association. According to the affidavit sworn to by the interim Administrator, in view of the consistent enmity among the members, the Association could not be effectively run and,

therefore, they had invited the action by the EPF authorities. In any case, after taking over the administration, the Administrator has been doing his best to salvage whatever that has happened in the past in order to redeem the Trust Association from all its liabilities.

4. According to the petitioner, in view of the non-availability of certain materials in respect of EPF claim, the appeal could not be filed within the time or within the extended time and, therefore, the present writ petition has been filed seeking direction to the 1st respondent to entertain the appeal.

5. This Court has expressed its inability to grant such prayer, since what is provided under the statute regarding limitation cannot be extended by this Court, as the same will fall within the legislative domain of the appropriate Government. However, on a suggestion made as to filing of a review before the original authority/2nd respondent is concerned, learned senior counsel appearing for the petitioner took time to get instructions and in the meanwhile notice ordered, was also served on the learned counsel appearing for the 2nd respondent/EPF authority.

6. Today, when the matter is taken up, learned senior counsel appearing for the petitioner submits that the petitioner may be allowed to file a review against the order dated 13.7.2017, passed by the 2nd respondent u/s 7-B of the Act. According to the learned senior counsel, the time provided for filing the review, though is 45 days, as fixed in Part-17 of the Scheme, but, however, such limitation is not restrictive as unlike the appeal provision before the 1st respondent/Tribunal.

7. In view of the said submission and considering the entire facts in issue, this Court is inclined to permit the petitioner to file a review before the 2nd respondent/EPF authority seeking review of the order dated 13.7.2017, passed by it and the same shall be entertained by the 2nd respondent/EPF authority.

8. Accordingly, W.P. No.9221/2019 is disposed of directing the 2nd respondent/EPF authority to entertain the review filed against its order dated 13.7.2017. The 2nd respondent/EPF authority is further directed to give adequate and reasonable opportunity to the petitioner to put forth its case as against the claim of the EPF organisation and the 2nd respondent/EPF authority shall consider all the materials that are placed before it for consideration and pass orders in accordance with law. The petitioner is directed to file review within a period of one week from the date of receipt of a copy of this order and the 2nd respondent/EPF authority is directed to take the review

on file and pass final orders within a period of eight weeks from the date of filing of such review.

9. Accordingly, W.P. No.9221/2019 is disposed of with the above directions. In view of the orders passed by this Court in W.P. No.9221/2019, W.P. No.9224/2019, is allowed and the impugned orders passed in the said writ petition stand quashed. Consequently, connected miscellaneous petitions are closed. However, in the circumstances, there shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

GLN

To

1.The Assistant P.F. Commissioner (Compliance)
Employees' Provident Fund Organisation
Sub Regional Office
S-1, TNHB, Phase-III, Sathuvachari
Vellore 632 009.

2.The Assistant P.F.Commissioner / Recovery Officer,
Employees Provident Fund Organisation,
S-1, TNHB, Phase-III,
Sathuvachari, Vellore - 632 009.

+2cc to Mr.S.Bazeer Ahamed, Advocate sr.31577, 31578

+2cc to Ms. V.J.Latha, Advocate sr.32263, 32201

W.P. NOS.9221

&

9224 OF 2019

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