

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.26624 of 2018
and
W.M.P.No.30993 of 2018

R.A.Samy Trading (P) Limited
Represented by its Director
Mr.R.ArumughasamiPetitioner

Vs

1.The Assistant Provident Fund Commissioner
Employees Provident Fund Organization,
No.37, Royapettah High Road,
Chennai - 600 014.

2.The Recovery Officer,
Employees Provident Fund Organization,
No.37, Royapettah High Road,
Chennai - 600 014.

3.The Registrar,
Central Government Industrial Tribunal,
Sasthri Bhavan,
Chennai - 600 034.Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for records culminating in the impugned notice bearing reference No.CHN/TN/54734/RECY/DIV/25/REGL/2018, dated 11.09.2018 issued by the second respondent to quash the same and consequently to direct the respondents herein to hold personal enquiry or reasonable opportunity to put forth his grievances.

For Petitioner : Mr.N.Alagu Narayanan

For Respondents 1&2: Mr.V.Sundareswaran

For 3rd respondent : Tribunal

O R D E R

The petitioner has filed this writ petition seeking for a Writ of Certiorarified Mandamus to call for records culminating in the impugned notice bearing reference No.CHN/TN/54734/RECY/DIV/25/REGL/2018, dated 11.09.2018 issued by the second respondent to quash the same and consequently to direct the respondents herein, to hold personal enquiry or reasonable opportunity to put forth his grievances.

2. According to the learned counsel for the petitioner, the conditional order passed by this Court dated 09.10.2018 by directing the petitioner to deposit the amount of Rs.5,00,000/- to the credit of the 3rd respondent/The Registrar and the same has been complied with on 10.01.2019. Hence, the interim order has been complied with by the petitioner.

3. The learned counsel appearing for the respondents would submit that disputed the aforesaid fact, now, the Industrial Tribunal is functioning and therefore, the writ petition is not maintainable and the petitioner can approach the Tribunal by way of the appellate proceedings. The learned counsel for the respondents seek permission of this Court to withdraw the deposited amount by the petitioner.

4. In view of the above submissions made by the learned counsel appearing for the petitioner, the Memo has also been filed by the learned counsel for the petitioner by stating that the conditional order passed by this Court, by directing the petitioner to deposit a sum of Rs.5,00,000/- has been complied with and the submission made by the learned counsel for the respondent is that the Presiding Officer, has now been appointed and the Tribunal is functioning. In the light of the above, the petitioner is directed to work out his remedy before the Industrial Tribunal. Hence, the writ petition is not maintainable.

5. In view of the above submissions made by the learned counsel appearing for the respondents and since the Industrial Tribunal is functioning, the writ petition is not maintainable and the petitioner shall work out his remedy before the Tribunal and obtain appropriate orders. Equally, it is also open to the respondents to seek further directions and they are at liberty to approach the Tribunal to withdraw the said amount deposited, if any, by the petitioner.

6. Since the writ petition is not maintainable, it is open to the parties to approach the Tribunal and to seek further extension of Interim order before the Industrial Tribunal within a period of four weeks from the date of receipt of a copy of this order failing which, the Industrial Tribunal and the Tribunal shall proceed in accordance with law and pass appropriate orders and on merits. Till such time, Interim stay granted by this Court shall be in force,

7.With the above directions, the writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

msm

To

1.The Assistant Provident Fund Commissioner
Employees Provident Fund Organization,
No.37, Royapettah High Road, Chennai - 600 014.

2.The Recovery Officer,
Employees Provident Fund Organization,
No.37, Royapettah High Road, Chennai - 600 014.

3.The Registrar,
Central Government Industrial Tribunal,
Sasthri Bhavan, Chennai - 600 034.

+1cc to Mr.V.Sundareswaran, Advocate, S.R.No. 3721

+1cc to Mr.K.Shanmugam, Advocate, S.R.No. 3221

W.P.No.26624 of 2018

RK(CO)
GN(28/02/2019)

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