

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 08.03.2019****CORAM****THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE****W.P. (MD)No.4069 of 2019****and****W.M.P. (MD)No.3169 of 2019**

Tamil Nadu Theological Seminary,
Arasaradi, Madurai-625 016
Rep.by its Principal

... Petitioner

-vs-

The Assistant PF Commissioner
Employees Provident Fund Organization,
Sub-Regional Office,
1, Lady Doak College Road,
Chokkikulam, Madurai-625 002.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the Hon'ble Central Government Industrial Tribunal cum Labour Court, Chennai, Tamil Nadu in its order dated 21.12.2018 made in EPF A No.373/2018 and quash the same.

For Petitioner : Mr.K.Hemakarathikeyan

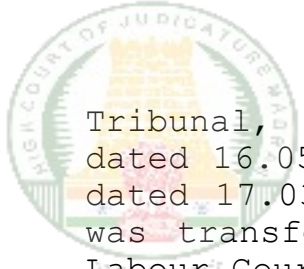
For Respondent : Mr.N.Mural Shankar

Standing counsel

O R D E R

The instant Writ Petition has been filed challenging the order dated 21.12.2018 passed by the Central Government Industrial Tribunal cum Labour Court, Chennai, Tamil Nadu, made in EPF.A.No.373 of 2018.

2.It is the case of the petitioner that for delayed payment of EPF contribution, the respondent initiated legal action against the petitioner under Section 14B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952. By order dated 17.03.2017, the petitioner was directed to pay a sum of Rs.8,82,353/- as damages to the respondent under Section 14B of the Act. Aggrieved by the order dated 17.03.2017 passed by the respondent, the petitioner preferred an appeal initially before the Employees Provident Fund Appellate



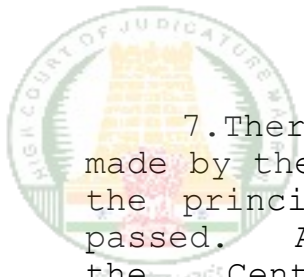
Tribunal, Bengaluru in A/TN/70/2017. The Tribunal by its order dated 16.05.2017 granted interim stay of the operation of the order dated 17.03.2017 passed by the respondent. Thereafter, the appeal was transferred to the Central Government Industrial Tribunal cum Labour Court, Chennai, Tamil Nadu. After the appeal was transferred to the Central Government Industrial Tribunal cum Labour Court, Chennai, Tamil Nadu, the said tribunal also extended the interim order dated 16.05.2017, until further orders on 20.12.2018. However, on the very next day, on 21.12.2018, the impugned order was passed directing the petitioner to deposit 30% of the demand made by the respondent, as per their demand order dated 17.03.2017, on or before 18.01.2019. Aggrieved by the order dated 21.12.2018 passed by the Central Government Industrial Tribunal cum Labour Court, Chennai, Tamil Nadu, the instant writ petition has been filed.

3. Heard Mr.K.Hemakarthiskeyan, learned counsel appearing for the petitioner and Mr.N.Mural Shankar, learned Standing counsel appearing for the respondent.

4. It is the case of the petitioner that the Tribunal has erroneously imposed conditions for the grant of stay by its order dated 21.12.2018, even though by an order dated 16.05.2017 passed by the EPF Appellate Tribunal, Bengaluru, granted interim stay and subsequently the same was extended by the Central Tribunal until further orders on 20.12.2018. But on the very next day, the stay was extended on a condition that the petitioner deposits 30% of the demand amount on or before 18.01.2019.

5. Admittedly, in the instant case, the petitioner has paid the entire EPF contribution with interest to the respondent, though belatedly. It is their case that they are not liable to pay damages under Section 14 B of the Act. All these issues ought to have been considered by the Tribunal before coming to a conclusion as to whether the petitioner is liable to pay damages under Section 14B of the Act or not.

6. It is seen from the records that EPF Appellate Tribunal, Bengaluru by its order dated 16.05.2017 has exercised its discretion to grant stay without any condition. The stay order was extended by the Central Tribunal by its order dated 20.12.2018. But without any basis and without any discretion, the Tribunal by its order the very next day dated 21.12.2018 imposed a condition on the petitioner that he should pay 30% of the demanded amount on or before 18.01.2019 for extension of stay. In the considered view of this Court, the order of the Central Tribunal is an erroneous order passed by total non-application of mind. There is no change of circumstances for the Central Government Industrial Tribunal cum Labour Court, Chennai, Tamil Nadu to modify the earlier order dated 16.05.2017 or the subsequent order dated 20.05.2018. Unless there is any change of circumstances, the interim stay already granted cannot be modified by granting a conditional stay.



7. Therefore, this Court is in agreement with the submissions made by the learned counsel for the petitioner that without applying the principles of natural justice, the impugned order has been passed. Accordingly, the impugned order dated 21.12.2018 passed by the Central Government Industrial Tribunal cum Labour Court, Chennai, Tamil Nadu is hereby quashed and the matter is remitted back to the Central Government Industrial Tribunal cum Labour Court, Chennai, Tamil Nadu for fresh consideration. Till the disposal of the appeal, before the Central Government Industrial Tribunal cum Labour Court, stay order shall continue and remain in force.

8. With the aforesaid observations, this Writ Petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Assistant PF Commissioner
Employees Provident Fund Organization,
Sub-Regional Office,
1, Lady Doak College Road,
Chokkikulam, Madurai-625 002.

2. The Central Government Industrial Tribunal Cum Labour Court,
Chennai, Tamil Nadu.

1 CC to M/s.K.HEMAKARTHIKEYAN, Advocate (SR-53007[F] dated
11/03/2019)

+1 CC to M/s.K.MURALI SANKAR, Advocate (SR-53093[F] dated
11/03/2019)

W.P. (MD) No. 4069 of 2019