

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 26722 of 2015

Puducherry Municipality,
represented by its Commissioner,
Lal Bahadur Sastri Street,
Puducherry - 605 001.

... Petitioner

-vs-

1. Union of India,
Rep by the Under Secretary to Government,
Ministry of Labour & Employment,
Government of India,
Shram Shakthi Bhawan,
Rafimarg,
New Delhi - 110 001.
2. The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
Sub-Regional Office,
No.101, 100 ft, Road,
Cholan Nagar,
Olandaikeerapalayam,
Puducherry - 605 004.
3. The Assistant Provident Fund Commissioner (Comp),
Employees Provident Fund Organisation,
Sub-Regional Office,
No.101, 100 ft, Road,
Cholan Nagar,
Olandaikeerapalayam,
Puducherry - 605 004.
4. The Enforcement Officer,
Employees Provident Fund Organisation,
Sub-Regional Office,
No.101, 100 ft, Road,
Cholan Nagar,
Olandaikeerapalayam,
Puducherry - 605 004.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to Order bearing No. S-35014/2/2014-SS.II dated 05.01.2015 on the file of the First Respondent and quash the same and consequently, direct the First Respondent to consider and pass orders on the Application dated 06.04.2013 filed by the Petitioner u/s.16(2) of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, on merits and forbear the Second to Fourth Respondents from initiating/proceeding with the enquiry under Section 7-A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 and taking further actions against the Petitioner till then.

For Petitioner :Mr. T.M.Naveem
for Mr. K.P.Jotheeswaran

For Respondents:Mr. R.Veludass,
Central Government Standing Counsel (for R1)

Mrs. V.J. Latha,
Standing Counsel (for R2 to R4)

O R D E R
(through video conference)

Heard T.M.Naveen, Learned Counsel appearing for the Petitioner, Mr. R.Veludass, Learned Central Government Standing Counsel appearing for the First Respondent and Mrs. V.J.Latha, Learned Standing Counsel appearing for the Second to Fourth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Central Government by Notification No. S.O. 30(E) dated 08.01.2011 in exercise of the powers conferred by Section 1(3) (b) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred as the 'EPF Act' for short) specified the Municipal Councils and Municipal Corporations constituted under Article 243-Q(1)(b) and (c) of the Constitution of India, employing 20 or more persons as a class of establishments to which that Act shall apply with effect from the date of its publication in the Official Gazette. According to the Petitioner, its regular employees were already entitled to the benefit of contributory provident fund and old age pension under the Pondicherry Municipal Subordinate Services (Retirement and Pension) Rules, 1976 made in the exercise of powers conferred under the Pondicherry Municipalities Act, 1973. The resultant effect of the aforesaid Notification No. S.O. 30 (E) dated 08.01.2011 issued under the EPF Act was that the Petitioner had become liable to contribute for provident fund

under the EPF Act for the contractual workers engaged by the Petitioner through contractors, who were not entitled to the benefits under the Pondicherry Municipal Subordinate Services (Retirement and Pension) Rules, 1976, which would cause financial hardship. In that factual backdrop, the Petitioner had made an application under Section 16(2) of the EPF Act to the First Respondent for exemption to its establishment, which has been rejected by Order No. S-35014/2/2014-SS.II dated 05.01.2015, and has been challenged in this Writ Petition.

3. It must also be stated here that in the order dated 03.10.2013 in the Writ Petition in W.P. No. 21134 of 2013 filed by the Petitioner, this Court had held that till a decision is taken by the First Respondent and communicated to the Petitioner, the authorities under the EPF Act shall be prohibited from proceeding further against the Petitioner under the EPF Act.

4. While the matter stands as narrated supra, the Petitioner has filed another Writ Petition in W.P. No. 23105 of 2018 challenging the Notification No. S.O. 30(E) dated 08.01.2011 issued by the First Respondent contending that there are separate provisions for payment of provident fund to the employees of the Petitioner under the Pondicherry Municipal Subordinate Services (Retirement and Pension) Rules, 1976, which continues to be in force. This Court has examined in detail and passed the order dated 01.10.2020 disposing the said Writ Petition, and as the conclusions arrived exhaustively govern the rights of the respective parties on all aspects of the matter involved, no separate adjudication is required in this Writ Petition.

In fine, the Writ Petition is disposed with the aforesaid clarifications. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vjt/kv

To

1. The Under Secretary to the Government of India,
Ministry of Labour & Employment,
Shram Shakthi Bhawan,
Rafimarg, New Delhi - 110 001.

2. The Regional Provident Fund Commissioner,
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Copy to

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represented by its Commissioner,
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Puducherry - 605 001.

+1 cc to M/s. V.J.Latha, Advocate Sr.No. 32699

JP(CO)
RMP(11/01/2021)

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सत्यमेव जयते

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