

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2020

CORAM

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

W.P. No. 5701 of 2020
and
W.M.P. No. 6650 of 2020

M/s. Senthil Public School,
Jagirammappalayam,
Behind Thambi Modern SPG Mills,
Salem - 636 602.
Rep. by its Secretary,
K.Dhanasekar ... Petitioner

-vs-

1. Assistant PF Commissioner,
Regional Office,
S.J. Plaza, Swarnapuri,
Salem - 636 004.
2. The Enforcement Officer,
Employees Provident Fund Organization
Salem - 1. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents herein from proceeding to recover the damages as ordered in proceedings No.CB/SML/RO/PDC/S-1/90091/14B-PROCEEDING/2020 dated 20.2.2020 (served on 24.2.2020 during the period contemplated under section 7(I) of Employees' Provident Fund and Miscellaneous Provisions Act, 1952 r/w Rule 7 of Employees' Provident Funds Appellate Tribunal, (Procedure) Rules, 1997 for filing appeal before the Tribunal (Procedure) Rules, 1997 for filling appeal before the Tribunal.

For Petitioner : Mr. M.R.Raghavan
For Respondents: Mr. R.Thirunavukarasu
(Standing Counsel)

O / R D E R
(through video conference)

Heard Mr. M.R.Raghavan, Learned Counsel for the Petitioner, Mr. R.Thirunavukarasu, Learned Standing Counsel for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner has preferred an appeal under Section 7 (I) of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the 'Act' for short), which has been taken on file as A.T.A. No. 55 of 2020 by the Appellate Authority, viz., Central Government Industrial Tribunal-cum-Labour Court, Chennai (hereinafter referred to as the 'Tribunal' for short) against the order No. CB/SML/RO/PDC/S-1/90091/14B-PROCEEDING/2020 dated 20.02.2020 passed by the First Respondent under Section 14-B of the Act. According to the Petitioner, the functioning of the Tribunal is not regular due to prevailing lock down on account of COVID pandemic and the application for waiver of pre-deposit/interim stay of the impugned order in that appeal could not be listed for hearing. As the Petitioner was given to understand that the First Respondent has instructed the Second Respondent to recover the determined amount of provident fund dues by attaching the bank account of the Petitioner without awaiting the outcome of the application for waiver of pre-deposit/interim stay of the impugned order in that appeal, the Petitioner has filed this Writ Petition to restrain the Respondents from taking any steps to enforce the order impugned in that appeal.

3. This Court by an order dated 04.03.2020 has granted interim injunction restraining such recovery which continues to be in force. It is informed by the Learned Counsel for both sides that the Tribunal has listed stay petition in the appeal for hearing on 19.12.2020 and has published a general order dated 05.08.2020, the contents of which is extracted below:-

"Due to the extension of the period of Lockdown the Appeals posted for admission and for other purpose are rescheduled to different date being uploaded in website. The Respondents are hereby directed not to take any coercive step against the Appellant, where the dates for admission of Appeal are rescheduled."

4. Having due regard to the aforesaid subsequent events, the Respondents shall await for orders to be passed in the stay application in A.T.A. No. 55 of 2020 by the Tribunal and shall not take any coercive measures against the Petitioner for recovery of the amounts under the order No. CB/SML/RO/PDC/S-1/90091/14B-PROCEEDING/2020 dated 20.02.2020 till orders thereon are communicated to the parties. It is made clear that the Tribunal is not precluded from passing any orders, interim or final, that it may deem fit and proper in accordance with law following the prescribed procedure after hearing the concerned parties.

Accordingly, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

dm

Sd/-
Assistant Registrar AD-I (MDU)

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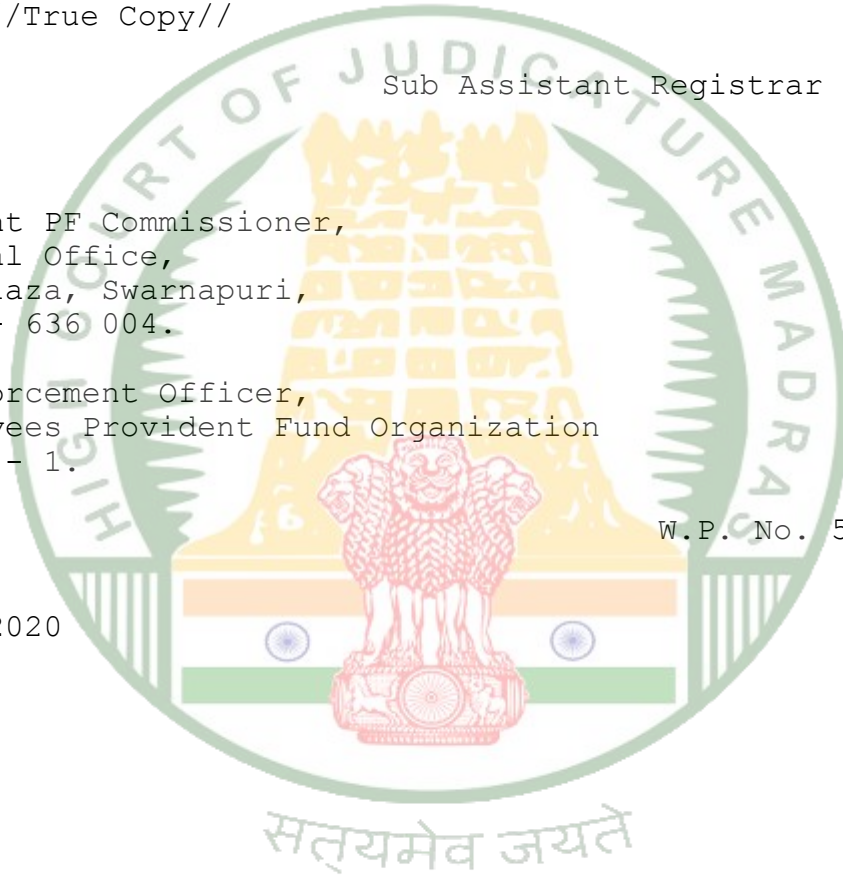
Sub Assistant Registrar

To

1. Assistant PF Commissioner,
Regional Office,
S.J. Plaza, Swarnapuri,
Salem - 636 004.
2. The Enforcement Officer,
Employees Provident Fund Organization
Salem - 1.

W.P. No. 5701 of 2020

RJI (CO)
EU 31.08.2020



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