

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2020

CORAM

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

W.P. No. 10055 of 2020

and

W.M.P. Nos. 12219 and 12304 of 2020

Danish Mission Hospital,  
Rep. by its General Superintendent,  
Mr. Hubert Dhanasundaram,  
Asanoor Road,  
Thirukovilur - 605 766.

... Petitioner

-vs-

The Assistant Provident Fund Commissioner,  
Employees Provident Fund Organization,  
Regional Office, P.B. No. 588, Shree Complex,  
'D' Block, No. 18, Madurai Road,  
Trichy - 620 008.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for records of impugned Demand Notice bearing Ref. No. Recovery/CBTRY/0010170/28/04/2015/ 522/2020 dated 02.06.2020 passed by the Respondent to quash the same and directing the Respondent to not to take any coercive action until the CGIT, Chennai starts its day to day functioning.

For Petitioner : Mr. P. Thangaraj

For Respondent : Mr. R. Thirunavukkarasu,  
Standing Counsel

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O R D E R  
(through video conference)

Heard Mr. P.Thangaraj, Learned Counsel for the Petitioner and Mr. R.Thirunavukkarasu, Learned Standing Counsel who takes notice for the Respondent 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 Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the 'Act' for short), before the Appellate Authority viz., Central Government Industrial Tribunal, Chennai (hereinafter referred to as the 'Tribunal' for short), which has been taken on file as E.P.F.A. No. 67 of 2018, against the order No. TN/ SRO-TRY/PDC/C-21/10170/14B PROC/2014 dated 15.09.2014 passed by the Respondent under Section 14-B of the Act. According to the Petitioner, though the matter was listed for hearing before the Tribunal on various dates including 03.01.2019 and 13.03.2020 for filing Counter of the Respondent, no orders had been passed in the application for interim stay in that appeal till date.

3. In the meanwhile, the Recovery Officer, Employees' Provident Fund Organisation, Ministry of Labour and Employment, Government of India, Regional Officer, Trichy by order No. Recovery/CBTRY/0010170/28/04/2015/ 522/2020 dated 02.06.2020 has required the Petitioner to pay the amounts due towards provident fund, within 15 days from the date of its receipt, failing which it has been informed that recovery would be made under Sections 8-B to 8-E of the Act. It is further contended that in view of the prevailing lockdown on account of the COVID pandemic, the functioning of the Tribunal is not regular. Aggrieved thereby, the Petitioner has filed this Writ Petition, challenging the order No. Recovery/CBTRY/0010170/28/04/2015/ 522/2020 dated 02.06.2020 passed by the Recovery Officer, Employees' Provident Fund Organisation, Ministry of Labour and Employment, Government of India, Regional Officer, Trichy and directing the Respondent not to take coercive action until the Tribunal starts its day-to-day functioning.

4. Having regard to the aforesaid contentions raised by the Petitioner, it is borne out from the record that the Respondent is yet to file the Counter in the appeal before the Tribunal and as such, there is no justification for passing the impugned order on the premise that no stay order exists in the appeal as mentioned as note in the impugned order.

5. In the aforesaid circumstances, the Respondent shall await the orders to be passed by the Tribunal in E.P.F.A. No. 67 of 2018 and shall not take coercive steps against the Petitioner for recovery of the amount in pursuance of the order No. Recovery/CBTRY/0010170/28/04/2015/ 522/2020 dated 02.06.2020 till orders are passed in that appeal and communicated by the Tribunal 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.

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

s/d-  
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

vjt  
To

The Assistant Provident Fund Commissioner,  
Employees Provident Fund Organization,  
Regional Office, P.B. No. 588, Shree Complex,  
'D' Block, No. 18, Madurai Road,  
Trichy - 620 008.

Copy to

The Presiding Officer,  
Central Government Industrial Tribunal-cum-Labour Court,  
1<sup>st</sup> Floor, B-Wing,  
26, Haddows Road,  
Shastri Bhawan,  
Chennai - 600 006.

W.P. No. 10055 of 2014

SAI(CO)  
SP(13/08/2020)

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