

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2020

CORAM

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

W.P. No. 32852 of 2016

and

W.M.P. Nos. 28396 and 28397 of 2016

The Commissioner
Villupuram Municipality,
Villupuram - 605 602,
Villupuram District.

... Petitioner

-vs-

1. The Secretary,
Department of Ministry of Labour & Employment,
New Delhi.

2. The Central Provident Fund Commissioner
Employees' Provident Fund Organization
Bhavishya Nadhi Bhawan
14, Bhikaji Cama Place
New Delhi - 110 066.

3. The Assistant Provident Fund Commissioner,
(Enforcement)
Employment Provident Fund Organization,
Trichy Region,
P.B. No. 588, Sree Complex,
'D' Block, No.18, Madurai Road,
Trichy - 620 008.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned notification issued by the First Respondent dated 08.01.2011 and impugned proceedings in No.Enf.C1/TN/TR/81714/SRO-TRY/2016 dated 06.07.2016 passed by the Third Respondent and quash the same.

For Petitioner : Mr.P. Srinivas

For Respondents: Mr. J. Madhana Gopal Rao (For R1)
Central Government Standing Counsel

M/s. V.J. Latha, (For R2 & R3)
Standing Counsel.

O R D E R
(through video conference)

Heard Mr. P.Srinivas, Learned Counsel for the Petitioner, Mr. J. Madhana Gopal Rao, Learned Central Government Standing Counsel appearing for the First Respondent and Ms. V.J.Latha, Learned Standing Counsel appearing for the Second and Third Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Third Respondent by Order No. Enf.C1/TN/TR/81714/SRO-TRY/2016 dated 06.07.2016 had determined the contribution payable under Section 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act' for short) by the Petitioner, who received the copy of that order on 14.07.2016. The Petitioner was entitled to prefer appeal against that order under Section 7-I of the Act within a period of 60 days from the date of its receipt in terms of Rule 7(2) of the Employees' Provident Fund Appellate Tribunal (Procedure) Rules, 1997, before the Appellate Authority, who has been empowered to condone delay in filing such appeal for an extended period of 60 days, if sufficient cause for not preferring appeal within that period is made out. However, the Petitioner did not prefer any such appeal before the Appellate Authority, but has instead filed this Writ Petition on 02.09.2016 challenging the order passed by the Third Respondent.

3. When it is pointed out that it is not possible to entertain this Writ Petition in the absence of any acceptable explanation from the Petitioner for not having availed the aforesaid alternative remedy provided under the statute, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to the Petitioner to pursue the matter in the appeal filed before the Appellate Authority and he has filed a memo dated 01.09.2020 to that effect, which has been placed on record.

In the result, the Writ Petition is dismissed as withdrawn granting such liberty. It is made clear for the purpose of reckoning limitation for availing aforesaid remedy, the period from the date of filing of the Writ Petition, viz., 02.09.2016, till today, viz., 01.09.2020, shall be excluded. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(Insp.Cell)

//True copy//

Sub Assistant Registrar

Maya

To

1. The Commissioner
Villupuram Municipality,
Villupuram - 605 602,
Villupuram District.
2. The Secretary,
Department of Ministry of Labour & Employment,
New Delhi.
3. The Central Provident Fund Commissioner
Employees' Provident Fund Organization
Bhavishya Nadhi Bhawan
14, Bhikaji Cama Place
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4. The Assistant Provident Fund Commissioner,
(Enforcement)
Employment Provident Fund Organization,
Trichy Region,
P.B. No. 588, Sree Complex,
'D' Block, No.18, Madurai Road,
Trichy - 620 008.
5. The Section Officer,
ER Section,
High Court, Madras.

+1cc to Mr.P. Srinivas, Advocate SR.No.28633

W.P. No. 32852 of 2016

VBA (CO)
GMY (08/09/2020)