

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 27-11-2020

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.NO.15266 OF 2020

Updater Services Pvt., Ltd.,
No.2/302A, UDS Salai,
Off. Old Mahabalipuram Road,
Thoraipakkam,
Chennai - 600 097.

Rep. by its Authorised Signatory.

...Petitioner

-vs-

1. The Central Provident Fund Commissioner
O/o. The Central Provident Fund Organisation,
Bhavishya Nidhi Bhawan,
14, Bhikaiji Cama Place,
New Delhi - 110 066.
2. The Regional Provident Fund Commissioner
O/o. The Regional Provident Fund Organisation,
No.37, Royapettah High Road,
Opposite Swagat Hotel,
Chennai - 600 014.
3. Sub Regional Office - Puducherry
Bhavishya Nidhi Bhawan,
Sri Venni Commercial Complex,
No.101, 100 Feet Road,
Cholan Nagar, Olandai Keerapalayam,
Puducherry - 605 004.
4. Employees Fund Organisation Sub-Regional Office
Bhavishya Nidhi Bhawan,
No.36/685-A, Post Box No.1895,
Kochi, Kerala - 682 017.
5. Employees Fund Organisation Sub-Regional Office
Survey No.37/1, Annapoorneshwari Complex 6th Main,
Singasandra, Hosur Road,
Bengaluru,
Karnataka - 560 068.

6. Employees Fund Organisation Regional Office
3-4-763, Barkatpura Road, Barkatpura,
Hyderabad, Telangana - 500 027.
7. Employees Fund Organisation Regional Office
341, Bhavishya Nidhi Bhavan, Bandra East,
Mumbai, Maharashtra - 400 051.
8. Employees Fund Organisation Regional Office,
UNIT-9, Janpath,
Bhubaneswar, Odisha - 751 022.
9. Employees Fund Organisation Regional Office
DK Block Sector-II, Karunamoyee,
Bidhannagar, Kolkatta,
West Bengal - 700 091.
10. Employees Fund Organisation
Bhavishya Nidhi Bhawan,
24, Pattyo Plaza, Panaji,
Goa - 403 001.
11. Employees Fund Organisation Regional Office,
Plot No.68-71, Radha Saomi Road,
Sector 23, Dwarka,
New Delhi, Delhi - 110 077.
12. Employees Fund Organisation Regional Office
Near, Bhavishya Nidhi Bhavan, Ashram Road,
Near Income Tax Circle,
Ahmedabad, Gujarat - 380 014.

...Respondents

Writ petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to provide the benefit applicable under the Pradhan Mantri Rojgar Protsahan Yojana Scheme (PMRPY), dated 23.02.2017 for the wage month April 2020 to the petitioner, give appropriate credit for the amount to the petitioner in terms of the scheme.

For Petitioner : Mr. Anand Gopal
for M/s. T.S. Gopalan & Co.,

For Respondents : Ms. V.J. Latha for R1 and R3
Mr. T.R. Sundaram for R2

ORDER

The prayer sought for herein is for a writ of mandamus, directing the respondents to provide the benefit applicable under the Pradhan Mantri Rojgar Protsahan Yojana Scheme (PMRPY), dated 23.02.2017 for the wage month April 2020 to the petitioner, give appropriate credit for the amount to the petitioner in terms of the scheme.

2. The petitioner company has been claiming to provide employment for thousands of people throughout the country and it has already been under EPF NEFT, whereby every month it makes contribution of both employer and employee without fail.

3. While so, for the month of March and April 2020 are concerned, in view of the COVID-19 pandemic situation, it seems that, some relaxation has been given, whereby the EPF authorities has extended the date to pay the contribution through ECR for wage month March 2020 on or before 15.05.2020. Accordingly, the petitioner seems to have expected an extension for such payment for the wage month of April 2020 also, however no such specific extension was given, the petitioner company claimed that, for the wage month of April 2020, it had uploaded the challan through ECR on 15.05.2020 itself, that too after having paid the salary for the month of April 2020.

4. Having uploaded the challan denoting the payment of contribution to the EPF authorities, for the salary month of April 2020, the petitioner company expected the credit or incentive facility arising out of the Pradhan Mantri Rojgar Protsahan Yojana Scheme (PMRPY) which infact has usually being paid or credited by way of incentive by the Central Government, in order to encourage the industries and employers to generate more employment to the unemployed youth in this country.

5. However, the said incentive as claimed by or expected by the petitioner company even though has been reflected in the challan itself uploaded by the petitioner company on 15.05.2020, actually the said incentive has not been given or credited to the petitioner employer. Therefore, in order to get the said incentive under the PMRPY scheme, the petitioner has given a detailed request to the respondent EPF authorities addressed to the Central Provident Fund Commissioner, New Delhi on 19.05.2020. Since the said request also having not been considered and nothing was forthcoming from the respondents and the incentive as entitled to the petitioner company has not so far has been credited for the salary month on April 2020, the petitioner company has approached this Court with the aforesaid prayer.

6. On notice, Ms.V.J.Latha, learned Standing counsel appearing for the respondent EPF authorities, on instructions, ofcourse orally, would contend that, though the last date for crediting the contribution had been extended up to 15.05.2020 for the salary month of March 2020, no such extension was given for the salary month of April 2020. Therefore, as per the procedure in vogue, the petitioner company ought to have paid the contributions for the salary month of April 2020 on or before 15.05.2020.

7. In this context, the learned Standing counsel would further submit that, though it was claimed by the petitioner as projected by the learned counsel appearing for the petitioner that, they have paid the amount by uploading the challan on 15.05.2020, actually the amount has not been paid for the salary month of April 2020. Therefore the claim of the petitioner to give the incentive under the said PMRPY scheme for the petitioner for the particular month, i.e., April 2020 was not considered. In this regard, the learned Standing counsel for the respondent would also contend that, if at all, it is the stand of the petitioner company that, definitely they have paid the salary to the employees for the month of April 2020 in time and accordingly, they uploaded the challan for making EPF contribution on 15.05.2020, in that context, if the petitioner company is able to establish their case, after considering the said aspect, certainly the request made by the petitioner through the representation dated 19.05.2020 would be considered on merits and accordingly the decision would be made by the respondent, EP authorities within a time frame to be stipulated by this Court.

8. I have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

9. That the controversy in this writ petition is not that much difficult to resolve. In fact, it is the claim of the petitioner company that, regularly it was getting the incentive under the PMRPY scheme and till March 2020 there was no controversy and even from May 2020 also it seems that there was no controversy in getting such incentive.

10. In between, only for the salary month of April 2020, this controversy has arisen, where it is the definite case of the petitioner company that, they after having paid salary for the employees for the salary month of April 2020, has uploaded the contribution challan on 15.05.2020, thereby, within the cut off date everything has been done by the petitioner company as per the scheme and therefore the petitioner company is entitled to get incentive under PMRPY scheme.

11. In this regard, it is the claim of the petitioner company that, after considering the same, the incentive should be credited to the petitioner and accordingly, it has given a detailed request to the Central Provident Fund Commissioner, i.e., the respondent EPF authorities on 19.05.2020 and therefore, the petitioner's company expecting the respondents to consider the said request of the petitioner on merits, based on the claim of the petitioner with supportive documents and accordingly, a decision to be made for giving such incentive.

12. In this context, the learned Standing counsel appearing for the respondent also would contend that, if the petitioner company really paid the salary for the salary month of April 2020 and accordingly uploaded the challan for making the payment on or before 15.05.2020, those details if already submitted would be definitely considered and in this regard, the request of the petitioner, dated 19.05.2020 would be considered by the respondent EPF authorities on merits and in this regard, if any further documents are required or clarification is needed, that would also be asked by the EPF authorities to the petitioner and on submission of the same, orders would be passed on that representation of the petitioner with regard to the granting of incentive for the salary month of April 2020.

13. In that view of the stand taken by both sides, this Court is inclined to dispose of this writ petition with the following orders :

"(i) that the respondent EPF authorities shall consider the request of the petitioner, dated 19.05.2020 addressed to the Central Provident Fund Commissioner, New Delhi with regard to the claim of incentive under PMRPY scheme for the salary month of April 2020, based on the input already been supplied by the petitioner company.

(ii) In this context, if at all the respondent EPF authorities still wants some more details or documents, in order to substantiate the stand of the petitioner company for seeking the said incentive and its entitlement for getting the same for the salary month of April 2020, if any further documents are required or clarification is needed, the same can also be asked for by the EPF authorities to the petitioner and on such request, the petitioner shall substantiate their claim by producing the documents necessary in this regard and ultimately on

consideration of all these aspects, the final order shall be passed by the respondents / EPF authorities, i.e., the first respondent, for giving such incentive by way of credit to the petitioner company for the salary month of April 2020 and the needful as indicated above shall be undertaken by the authorities within a period of two months from the date of receipt of a copy of this order."

With these direction, this writ petition is disposed of. No costs.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

tsvn

To

1. The Central Provident Fund Commissioner
O/o. The Central Provident Fund Organisation,
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14, Bhikaiji Cama Place,
New Delhi - 110 066.
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Ahmedabad, Gujarat - 380 014.

+1cc to M/s.T.S.Gopalan, Advocate, SR.No.38061

W.P.No.15266 of 2020

MG(CO)
KKV/11/02/2021

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