

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2020

CORAM

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

W.P. No. 25957 of 2019

N.E.P.C. Tea Garden - Unit - II,
Rep. by its Chief Executive,
R. Rajkumar,
Waverley Estate,
Valparai - 642 105.

... Petitioner

-vs-

Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Post Box No. 3875, Dr. Balasundaram Road,
Coimbatore - 641 018.

... Respondent

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of order Ref. No. CB/CBE/PDC-II/CC-25/691/Interest/2017 dated 22.12.2017 passed by the Respondent to quash the same and direct the Respondent to accept the remaining outstanding determined amount in 24 equal installments.

For Petitioner : Mr. P. Thangaraj

For Respondent : Mr. C. Kulanthaivel

O R D E R

(through video conference)

Heard Mr. P. Thangaraj, Learned Counsel for the Petitioner, Mr. C. Kulanthaivel, Learned Standing Counsel for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. It is contended by the Learned Counsel for the Petitioner that though the Petitioner has challenged the order No. CB/CBE/PDC-II/CC-25/691/Interest/ 2017 dated 22.12.2017 passed by the Respondent demanding payment of interest for the accumulation of provident fund dues under Section 7-Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the 'Act' for short), the Petitioner would be satisfied if the arrears of provident fund dues accumulated are permitted to be remitted in 24 equated monthly installments.

3. In response to the query made, Learned Standing Counsel appearing for the Respondent has produced the Circular No. RRC/28(23)06/BIFR/23781 dated 11.02.2014 and the Circular No. RRC/28(23)06/BIFR/3345 dated 12.05.2014 issued by the Central Provident Fund Commissioner, containing the instructions approved by the Central Board of Trustees of the Employees Provident Fund Organisation in their earlier meetings to permit the arrears of provident fund dues accumulated to be remitted in monthly installments.

4. Learned Counsel for the Petitioner states that the Petitioner has submitted a representation dated 01.08.2020 for availing the said benefit of remitting the arrears of provident fund accumulated in 24 equated monthly installments, the receipt of which has been acknowledged by the Respondent on 04.08.2020 and the copy of which has been produced before this Court.

5. Having due regard to the aforesaid submissions made, this Court without expressing any view on the correctness or entitlement of the claim made by the Petitioner, requires the Competent Authority to duly consider the aforesaid representation dated 01.08.2020 made by the Petitioner with reference to the parameters stipulated in the aforesaid circulars, and pass reasoned orders on merits and in accordance with law and communicate the decision taken to the Petitioner under written acknowledgment. Before carrying out that exercise, if the Competent Authority is of the view that the Petitioner has not satisfied the prescribed requirements or eligibility criteria for that benefit, the deficiencies in that regard shall be informed in writing to the Petitioner requiring he same to be furnished within a time frame of not less than 10 working days that may be granted for that purpose. In the event of the Competent Authority being of the opinion that the Petitioner has not satisfied the same even thereafter, an enquiry shall be conducted affording an opportunity of personal hearing to the Petitioner to explain its position regarding such compliance. It is made clear that resort to coercive action for recovery against the Petitioner shall be deferred till the representation is disposed in the aforesaid manner.

Accordingly, the Writ Petition is disposed on the aforesaid terms. No costs.

-s/d-

Assistant Registrar(CS-)

True Copy

Sub-Assistant Registrar

To

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Post Box No. 3875, Dr. Balasundaram Road,
Coimbatore - 641 018.

+1 cc to Mr.C.Kulanthaivel, advocate,sr.26377.

Mp(co)
krd 18/8

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