

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 04-03-2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.32521 OF 2019

R.Veerakumar

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Petitioner

-vs-

- 1.The Additional Central Provident Fund Commissioner,
EPFO, Zonal Office,
Dr.Balasundaram Road,
Coimbatore-641 018.
- 2.The Regional Provident Fund Commissioner-I,
EPFO, Regional Office, Bhavishya Nidhi Bhawan,
NGO ''B'' Colony,
Tirunelveli - 627 007.
- 3.The Regional Provident Fund Commissioner-II (ADM),
EPFO, Regional Office, Bhavishya Nidhi Bhawan,
NGO ''B'' Colony,
Tirunelveli - 627 007.
- 4.The Managing Director,
Madura Coats (Private) Limited,
83-88, Beach Road,
Tuticorin-628 001.
- 5.Smt.T.Chandraselvi
- 6.Sri T.Anantharaj
- 7.The Registrar,
Central Administrative Tribunal,
High Court Campus,
Chennai-600 104.

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Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to OA-310/01309/2019, dated 30.10.2019, quash the order passed by

the Hon'ble Tribunal, Chennai Bench, with regard to Interim Order and consequently direct the respondents to defer the recovery of Rs.14,000/- p.m. from the monthly salary of the Petitioner for a period of 26 months vide Letter No.TN/CB/TNY-RO/OPRC/EDLI-OP/September/2019, dated 18.09.2019, till the pendency of O.A.No.310/1309/2019 before the Hon'ble Central Administrative Tribunal, Chennai Bench.

For Petitioner : Mr.N.K.Srinivasan

For Respondents 1 to 3: Mr.S.M.Deenadayalan

For Respondent 4 : Mr.S.Ravindran,

Senior Counsel,

for Mr.S.M.Basheer Ahmed

For Respondents 5 & 6 : Mr.P.Muthamizh Selvakumar

For R7 : Tribunal

ORDER

(By M.M.Sundresh,J.)

Petitioner is an employee of Respondent No.3. The order of recovery is sought to be made against the petitioner on the premise that though appropriate amount has been paid to the legal heirs of the deceased employee of Respondent No.4, a further amount has been paid by Respondent No.3 through the petitioner, notwithstanding the fact that there is no entitlement for the same. Petitioner approached the Central Administrative Tribunal, challenging the recovery, initiated against him. Pending the Original Application filed by him, the petitioner sought for interim order, which was declined by the learned Tribunal and, therefore, the present Writ Petition has been filed.

2. This Court, on prima facie consideration, granted interim order on 21.11.2019.

3. Learned counsel for the petitioner submitted that no inquiry has been conducted before the recovery, that is sought to be made, and the petitioner is not at fault. He would further submit that the beneficiaries have already stated that they would repay the excess amount; therefore, a prima facie case has been made out in favour of the petitioner and, hence, the interim order, already granted, has to be made absolute, pending disposal of the Original Application before the Tribunal.

4. Learned counsel for Respondents 1 to 3 submitted that a Show Cause Notice has already been issued to the petitioner and the petitioner undertook to repay the amount. He would further submit this is a case of payment having been made without authority of law through the petitioner and, therefore, the Writ Petition has to be dismissed.

5. Mr.S.Ravindaran, learned Senior Counsel, appearing for fourth respondent, submitted that for the mistakes committed by the petitioner and the third respondent, recovery is sought to be made against the fourth respondent also, which is unsustainable. He further submitted that a separate Writ Petition has been filed by fourth respondent and the same is pending before the Madurai Bench of this Court.

6. We have heard the learned counsel for the parties and also gone through the records.

7. This is a case of recovery and the amount sought to be recovered from the petitioner is Rs.3,67,188/-. Admittedly, the petitioner is the employee of Respondent No.3. The question as to whether the recovery order passed against the petitioner is valid in law or not, is a matter, to be decided by the learned Tribunal, by way of final adjudication.

8. In such view of the matter, we are of the view that the contentions raised herein are to be adjudicated by the learned Tribunal one way or another. Non-granting of interim order would certainly prejudice the petitioner. Petitioner, being the employee of Respondent No.3, is not going to escape from the law, even in the event of his Original Application being dismissed. He has got another 20 years of service with Respondent No.3. Therefore, he is not going to escape from the clutches of Respondent No.3 in any manner. We also find that there are issues to be argued and decided in the Original Application.

9. In the given situation, without expressing any opinion on merit, we are inclined to continue the interim order till the disposal of the Original Application by the learned Tribunal. We further call upon the learned Tribunal to dispose of O.A.No.310/1309/2019 within a period of eight weeks from the date of receipt of a copy of this order.

10. Writ Petition is disposed of accordingly. No costs. Consequently, the connected W.M.P.Nos.32865 of 2019 and 3017 of 2020 are closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

dixit

To

- 1.The Additional Central Provident Fund Commissioner,
EPFO, Zonal Office,
Dr.Balasundaram Road,
Coimbatore-641 018.
- 2.The Regional Provident Fund Commissioner-I,
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Tirunelveli - 627 007.
- 4.The Registrar,
Central Administrative Tribunal,
High Court Campus,
Chennai-600 104.

+1cc to Mr.S.M.Basheer Ahmed , Advocate SR.No.20264

+1cc to Mr.S.M.Deenadayalan, Advocate SR.No.19040

W.P.No.32521 OF 2019

SJ(CO)
GMY(10/06/2020)