



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.03.2020

CORAM:

THE HONOURABLE JUSTICE C.V.KARTHIKEYAN

W.P. (MD)No.5146 of 2020
and WMP(MD)No.4488 of 2020

P.K.Mookanambalam & Company,
Engineering Contractors,
No.21, Jawahar Street,
Madurai-625 020.

... Petitioner

Vs.

1.The Registrar,
Central Government Industrial Tribunal Cum Labour Court,
Sastri Bhavan, Chennai-641 016.

2.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Regional Office, Madurai-625 002.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the first respondent in EPFA No.12/2020, dated 18th February 2019 and quash the same insofar as imposing a condition to deposit of 55% amount is concerned.

For Petitioner : Mr.V.O.S.Kalaiselvam
For R-2 : Mr.V.S.V.Venkateshwar
Standing Counsel

O R D E R

The Writ Petition filed in the nature of Certiorari seeking to interfere with the order of the first respondent viz., The Registrar, Central Government Industrial Tribunal Cum Labour Court in EPFA No.12/2020, dated 18.02.2019.

2. The petitioner viz., P.K.Mookanambalam & Company, Engineering Contractors, Madurai, are engaged in the construction of rail over bridge and allied Central and State Government works like road laying and construction works. According to them, they engage contract labourers.



3. It is stated in the affidavit filed in support of this Writ Petition, that the Enforcement Officer visited the petitioner's organisation and assessed the dues based on the Balance Sheet records for the period 3/2014. Thereafter, a report was filed on 02.08.2016 to the respondents. The petitioner, has raised several grievance as against the said report. Finally, he had filed an Appeal before the first respondent as against the order of the second respondent dated 27.11.2019. While entertaining the appeal, the first respondent, had directed the petitioner to deposit 55% of the dues determined in the impugned order and had granted time till 30.04.2020.

4. Heard the learned counsel appearing for the petitioner and the second respondent also.

5. The appeals to the Tribunal are covered under Section 7-I of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. Under Sub Section 2 of the said provision, every appeal shall be filed in such form and manner, within such time and be accompanied by such fees, as may be prescribed. Section 7-O of the said Act reads as follows:

*"7-O. Deposit of amount due, on filing appeal-
No Appeal by the employer shall be entertained by a Tribunal unless he has deposited with it seventy-five per cent of the amount due from him as determined by an officer referred to in Section 7-A:*

Provided that the Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this Section."

6. The learned counsel states that the first respondent had exercised discretion by reducing the pre-deposit from 75% to 55% and the reasons had been given. The reasons are that the appeal had been filed within a period of limitation and under these circumstances, the first respondent had opined that there could be partial waiver of the condition of pre-deposit. The imposition of condition to deposit 55% of the amount as determined by the second respondent, is, now questioned in the present Writ Petition.

7. The learned counsel appearing for the petitioner placed reliance on an earlier order of the learned Single Judge of this Court in ***W.P. (MD) .No.593 of 2020-(Bharath Niketan Polytechnic College Vs. The Presiding Officer, Central Government Industrial Tribunal cum Labour Court and others)***, wherein, by the interim order in W.M.P.(MD).No.435 of 2020 on 10.01.2020, the pre-condition deposit, which had been fixed at 60 % was challenged and was examined by the Court and it was stated that the Writ Petition should be subsequently posted on 29.01.2020 and till that date, the Appeal filed by the petitioners, should not be returned or rejected.



The learned Single Judge had not granted any stay of order. In the present case, the learned counsel states that he would deposit 25 % of the amount instead of imposition of 55%.

8. Accordingly, the order of the first respondent is modified to the extent that the petitioner should deposit 25% on or before 30.04.2020 and thereafter, the Appeal may be heard on its merits.

9. With the above observations, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Tsg

To

1.The Registrar,

Central Government Industrial Tribunal Cum Labour Court,
Sastri Bhavan, Chennai-641 016.

2.The Assistant Provident Fund Commissioner,

Employees Provident Fund Organization,
Regional Office, Madurai-625 002.

+1 CC to Mr.V.O.S.KALAISELVAN, Advocate (SR-11192[F] dated
11/03/2020)

Order made in

W.P. (MD)No.5146 of 2020

Dated:11.03.2020

MK (20.03.2020) 3P 4C