



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2020

CORAM:

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P (MD) No. 7270 of 2019

and

W.M.P (MD) .Nos. 5818 and 20919 of 2019

M/s.Senthil Hospital
No.349, Main Road, Sattur 626 203,
Virudhunagar District,
rep., by its Proprietor,
Dr.M.Velusamy M.S.,

.. Petitioner

Vs.

1.The Assistant Provident Fund Commissioner,
(Compliance),
Employees' Provident Fund Organisation,
Ministry of Labour-Government of India
Regional Office, Lady Doak College Road,
Chokkikulam, Madurai 2

2.The Enforcement Officer,
E.P.F.Organisation,
District Office, Sivakasi.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records on the file of the first respondent in its impugned proceedings made in MD/MD/MDU/97123/ENF B/M10/APPLY/2015 dated 11.09.2015 and its consequential proceedings of the prosecution notice No.MD/MDU/DO/SVK/EO(PU)/97123/2019 dated 18.03.2019 by the second respondent quash the same as illegal in accordance with law.

For Petitioner	: Ms.S.Mahalakshmi
For Respondents	: Mr.N.Muralishankar Standing Counsel

ORDER

This petition has been filed to quash the proceedings made in MD/MD/MDU/97123/ENF B/M10/APPLY/2015 dated 11.09.2018 on the file of the first respondent and its consequential proceedings of the prosecution notice No.MD/MDU/DO/SVK/EO(PU)/97123/2019 dated 18.03.2019 by the second respondent.



2.The first respondent/Assistant Provident Fund Commissioner, Employees' Provident Fund Organisation, Ministry of Labour-Government of India, Madurai-2 had passed an order under Section 7A (1)(a) of the 'Employees Provident Funds and Miscellaneous Provisions Act, 1952' (hereinafter referred to as 'said Act' for the sake of brevity) against the petitioner herein, M/s.Senthil Hospital at Sattur in Srivilliputhur District, which is represented by its Proprietor in the present writ petition.

3.As against the said order passed under Section 7A of the said Act, review is permitted if an appeal has not been filed. The petitioner has not filed any appeal. The review should be filed in a particular form in accordance with law. The particular form is Form -IX. On the other hand, the petitioner gave a letter claiming to be a review application. Naturally, the respondent rejected the same. After the rejection of the said letter, the respondents called upon the petitioner why prosecution may not be initiated by the impugned order dated 18.03.2019. Since prosecution was sought to be launched against the petitioner, the petitioner finally woke up and has approached this Court by filing of this writ petition. For filing an appeal, 75% of the amount should be deposited. Therefore, this Court had directed the petitioner herein to deposit 75% of the amount claimed.

4.Today, the learned counsel for the petitioner submitted that 75% of amount demanded had already been deposited with the respondent. The learned counsel for the petitioner therefore, seeks permission to file a review application in accordance with paragraph 79A of the Employment Provident Funds Scheme, 1952. The time for filing such a review has long expired. The review application must be filed within a period of 45 days from the date of the original order. The date of the original order is 11.09.2015.

5.The learned counsel for the petitioner states that a direction could be given permitting the petitioner to file a fresh application under Form IX questioning the rejection order dated 11.09.2015 and stated that the application will revert back to the date of the original application seeking review dated 20.10.2015. Since the petitioner is running a Hospital and also in the interest of the patients and general public a small leverage can be given. Therefore, the following directions are given:-

(i) the petitioner shall file a review application as contemplated under Form IX of the Act in paragraph 79 A of the Employment Provident Funds Scheme, 1952 on or before 13.03.2020. This relief is granted because the original application under the guise of review was filed within the stipulated period of 45 days.



(ii) the respondents are requested to take into account 75% of the amount already deposited as the precondition deposit for filing of the review.

(iii) the respondents are directed to dispose of the review application on or before 30.04.2020 by following the procedure envisaged under the law including issuance of notice.

6. With the above observations, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS)

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Sub Assistant Registrar (CS)

rmk

TO

1. The Assistant Provident Fund Commissioner,
(Compliance),
Employees' Provident Fund Organisation,
Ministry of Labour-Government of India
Regional Office, Lady Doak College Road,
Chokkikulam, Madurai 2

2. The Enforcement Officer,
E.P.F. Organisation,
District Office, Sivakasi.

+1 CC to M/s.K.MURALISHANKAR, Advocate (SR-9914[F] dated 03/03/2020

+1 CC to M/s.S.MAHALAKSHMI, Advocate (SR-10288[F] dated 05/03/2020)

W.P (MD) No. 7270 of 2019
03.03.2020

svm (CO)

TR (05.03.2020) 3P 5C