



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2020

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P.(MD)No.10886 of 2017

and

W.M.P.(MD)No.8316 of 2017

WEB COPY

S.Suthakaran

... Petitioner

Vs.

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Regional Office,
No.1, Lady Doak College Road,
Chockikulam,
Madurai, Tamilnadu-625 002.

... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to dispose of the review application filed by the petitioner under Section 7-B of the Employees Provident Fund and Miscellaneous Provisions Act on 26.05.2017 against the order passed by the respondent in MD/MDU/91856 dated 11.03.2016 under Section 7-A of the Employees' Provident Fund and Miscellaneous Provisions Act.

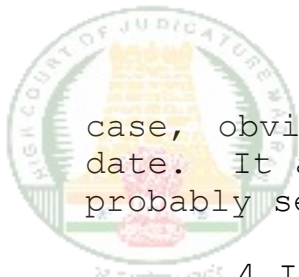
For Petitioner : Mr.S.Seenivasagam
For Respondent : Mr.V.S.R.Venkateshwaran

ORDER

Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondent.

2.The prayer in the writ petition is for directing the respondent to dispose of the review application filed by the petitioner under Section 7-B of the Employees Provident Fund and Miscellaneous Provisions Act. The petitioner had filed the said review application questioning the order dated 11.03.2016 made under Section 7-A of the Employees' Provident Fund and Miscellaneous Provisions Act.

3.The petitioner's counsel states that the petitioner did not receive the order dated 11.03.2016. The petitioner's counsel had placed before me a bunch of papers indicating that his wife was seriously ill since March 2015 and that, the petitioner was virtually shuttling between Chennai and some foreign countries. The petitioner's wife eventually passed away on 29.03.2018. But then, this misfortune suffered by the petitioner will not enable this Court to direct the respondent to dispose of the petition mentioned review application. The review application can be disposed of by the Authority only if it has been filed within 45 days. In this



case, obviously, the review application was filed beyond the said date. It appears that during the petitioner's absence, the copy was probably served on some employee.

4. I wanted to know if the order under Section 7-B of the Act, can be challenged before the Tribunal. That possibility is also not there. The Tribunal can condone the delay only upto 60 days. The appeal period is also 60 days. Since the petitioner is not in a position to apply for review or file an appeal, I am of the view that the petitioner can be permitted to challenge the order dated 11.03.2016 passed under Section 7A of the Employees' Provident Fund and Miscellaneous Provisions Act by filing a writ petition. Merely because, the time limit for availing statutory remedy got exhausted, that will not take away the right of the petitioner to question the impugned order by filing a Writ Petition.

5. The petitioner's counsel states that he is having a photocopy of the said order and he is ready to file the Writ Petition within a period of two weeks from the date of receipt of a copy of this order. If the petitioner files such a writ petition, certainly, the petitioner will not be non suited on the ground of laches.

6. With this liberty to the petitioner to file a writ petition to question the impugned order dated 11.03.2016, the Writ Petition is dismissed. I make it clear that I have not gone into the merits of the matter. All the contentions of the petitioner are left open. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

+1 CC to Mr.S. SEENIVASAGAM, Advocate (SR-14573[F]
dated 21/08/2020)

W.P. (MD) No.10886 of 2017
20.08.2020