



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.32685 of 2015

T.Jayaraman

... Petitioner

-vs-

1. The Assistant Provident Fund Commissioner
Employees Provident Fund Organisation
Sub Regional Office
Madurai Road
Thiruchirapalli 620 008.

2. The Deputy General Manager,
Human Resources Department
(IR Section)
Administrative Office, Mine II & Expn
Neyveli Lignite Corporation Ltd.,
Neyveli 607 802.
Cuddalore District.

... Respondents

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent released to his order No.CB/TRY/104/reference dated 21.03.2014 to quash the same and issue consequential direction to the respondent to grant the EPF benefits for the period from 01.04.1983 to 31.03.2003 and EPF pension and disburse the same to the petitioner with interest.

For Petitioner : Mr.A.R.Suresh

For Respondents: Mr.Palanimuthu for R1
Mr.N.Nithianandam for R2

O R D E R

This Writ Petition has been filed, seeking to quash the order of the 1st Respondent dated 21.03.2014, made in CB/TRY/104/reference, by which the claim under the EPF Scheme has been rejected. The Petitioner also sought for a consequential direction to the 1st respondent to grant the EPF benefits for the period from 01.04.1983 to 31.03.2003 and EPF



pension and disburse the same to the petitioner with interest.

2. The case of the petitioner is that he was employed under different Contractors for various period from 01.04.1983 to 31.03.2003 and that the details pertaining to the last employment under different Contractors alone were produced, for which the benefits have been extended to the petitioner together with pensionary benefits. If the earlier period is taken into account, the petitioner would have got more money towards provident fund plus higher pension and that NLC has not remitted the amount after having collecting it from the Contractors. This fact has been disputed by the NLC on the ground that when this petitioner was employed through the Contractor, the entire provident funds have been duly deducted and remitted and they are not aware whether the Contractors have engaged the petitioner to work under NLC or in a different place. It was further submitted that without making the Contractors as party respondents, the present Writ Petition has been filed and the same is not maintainable.

3. Mr.Palanimuthu, learned counsel appearing for the EPFO would submit that whatever amount remitted by NLC towards Provident Fund has been paid to the petitioner and there are no details available with regard to the petitioner's employment under the different Contractors. Since there were no details available and that based on the records produced by NLC, the amount has been disbursed to the petitioner.

4. In reply to the above contention, the petitioner would submit that if the entire period of service under different Contractors from 01.04.1983 to 31.03.2003 is taken into account, he would be entitled to, not only higher emoluments towards Provident Fund, but also pension, as pension has been deprived on the ground that the petitioner has not made any contribution for a period of 10 years.

5. Admittedly, the Contractors were not made as party. It is true that NLC has written a letter to the Contractor asking them to give particulars in order to enable them to place before EPF Authority. As there is a lot of dispute and that the petitioner has not made the Contractors as parties to the proceedings, there should be an adjudication under Section 7A of the EPF Act, 1952 and after hearing NLC, petitioner and the Contractors, the actual fact about the petitioner's employment either under the NLC or any other person can be determined. This Court, therefore, is not inclined to grant the relief sought for by the petitioner. At the same time, the petitioner cannot be left at lurch without any remedy.

6. Hence, the Petitioner shall make claim to the concerned EPFO, within a period of 15 days from the date of receipt of a



copy of this order, after making NLC and the Contractors as party respondents. Both the petitioner and NLC shall provide full particulars about all the Contractors with regard to their address, so as to enable EPFO to issue notice / summons to all the Contractors, including the petitioner and NLC and decide the issue and determine the contributions, if any payable by the Contractors. Since the Petitioner has already crossed the age of 70 years, a time limit of six months from the date of receipt of a copy of the application, to be made by the Petitioner, is fixed for deciding the issue.

With the above direction, this Writ Petition is disposed of.
No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

dpq

To:

1. The Assistant Provident Fund Commissioner
Employees Provident Fund Organisation
Sub Regional Office
Madurai Road
Thiruchirapalli 620 008.

2. The Deputy General Manager,
Human Resources Department
(IR Section)
Administrative Office, Mine II & Expn
Neyveli Lignite Corporation Ltd.,
Neyveli 607 802.
Cuddalore District.

+1cc to Mr.A.R.Suresh, Advocate, S.R.No.32545
+1cc to Mr.N.Nithianandam, Advocate, S.R.No.32413

W.P.No.32685 of 2015

KSM(CO)
CB(01/11/2021)