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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.NO.13851 OF 2020

V.Mala

... Petitioner

-Vs-

1. The Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
Sub Regional Office,
No.S-1, TNHB, Phase-III,
Sathuvachari, Vellore 632 009.
2. The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Sub Regional Office,
No.S-1, TNHB, Phase-III,
Sathuvachari,
Vellore 632 009.
3. Mr.V.K.Abdul Jabbar Sahib sons,
Viruthampet,
Vellore 632 006.

... Respondents

Prayer :

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records connected with the impugned order issued by the second respondent vide No.TN/VLR/8213-F/525/Gr.V(1)/Accounts/399 dated 18.04.2017 and quash the same and further direct the first respondent to sanction and pay the compound interest at the rate of 12% per annum amounting to Rs.41,662/- (Rupees Forty One Thousand Six Hundred and Sixty Two only) to the petitioner for the delayed payment of insurance amount as per mandatory provisions of paragraph 24(4) of the Employees Deposit-Linked Insurance Scheme, 1976 within the time frame.

For Petitioner : Mrs.M.Kamatchi Sundhari for
M/s.Law Square

For respondents: Mrs.V.J.Latha for RR1 & 2
Mr.T.Kalaiselvan for R3



O R D E R

This writ petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records connected with the impugned order issued by the second respondent vide No.TN/VLR/8213-F/525/Gr.V(1)/Accounts/399 dated 18.04.2017 and quash the same and further direct the first respondent to sanction and pay the compound interest at the rate of 12% per annum amounting to Rs.41,662/- (Rupees Forty One Thousand Six Hundred and Sixty Two only) to the petitioner for the delayed payment of insurance amount as per mandatory provisions of paragraph 24(4) of the Employees Deposit-Linked Insurance Scheme, 1976 within the time frame.

2. The case of the petitioner is as follows:-

(i) The petitioner's husband was employed as Beedi Roller from 01.04.2002, in the third respondent establishment and died on 02.01.2013, while in service. Based on the petitioner's application to the first respondent, she was sanctioned Provident Fund Contribution on 17.06.2013 and Widow Pension on 25.06.2013. However, the application submitted under Form 5(IF) along with other applications under Employees Deposit Linked Insurance Scheme, 1976 for insurance was not sanctioned promptly. After repeated request from the petitioner, the first respondent has sanctioned the insurance amount of Rs.66,983/- on 01.08.2016, after an abnormal delay of 3 years and 7 months.

(ii) According to the petitioner, she was entitled to be paid 12% interest as per the mandatory provisions contained in paragraph No.24(4) of the Employees Deposit Linked Insurance Scheme, 1976. When the petitioner made a claim for grant of 12% interest for belated sanctioning of the insurance amount, she was informed vide communication dated 18.04.2017, that the delay in making payment of insurance amount was only due to the non-confirmation of the fact that whether the deceased employee died in service or not. On verification of the said fact, subsequently, the same was sanctioned. Therefore, she was not entitled to payment of interest. Challenging the same, the present writ petition has been filed.

3. The learned counsel for the petitioner reiterated the above facts and submitted that there is a mandatory provision for payment of interest for the delayed payment of insurance in terms of the Employees Deposit Linked Insurance Scheme, 1976. For no fault of the petitioner, she has been denied her rightful claim towards interest.



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"The claims, complete in all respects submitted along with the requisite documents shall be settled and benefit amount paid to the beneficiary within [twenty days] from the date of its receipt by the Commissioner. If there is any deficiency in the claim, the same shall be recorded in writing and communicated to the applicant within [twenty days] from the date of receipt of such application. In case the Commissioner fails without sufficient cause to settle a claim complete in all respect within [twenty days], the Commissioner shall be liable for the delay beyond the said period and penal interest @ 12% per annum may be charged on the benefit amount and the same may be deducted from the salary of the Commissioner." [The time limit for settlement was reduced from '30 days' to '20 days' vide GSR 527 (E) dated 02.07.2015.]

The provision contained in Para 24(4) of the EDLI Scheme can be invoked only where there is a delay on the part of the respondent despite receipt of all the required documents in 'complete form' to process the claim. In the present case, the confirmation regarding death-while-in-service could not be confirmed for want of records from the employer. It is stated that the other two claims submitted by the petitioner were processed and settled within 7 days of receipt, and this is sufficient evidence to demonstrate that the respondent had acted in a most sincere way to settle the benefits to the petitioner."

6. According to the learned counsel, the claim regarding insurance benefit could not be processed immediately for want of confirmation/verification with regard to the statement of the employer that the member died while in service. According to her, in terms of paragraph 24(4) of the EDLI Scheme, the claim should be complete in all respects, then only the same could be entertained. In the absence of confirmation of the death while in service for want of records, the application form could not said to have been complete in all respects. Therefore, the question of invocation of above said paragraph of EDLI Scheme did not arise in this case.

7. This Court considered the submissions of the learned counsel on either side and also the contents of the above extracted paragraphs of the counter affidavit filed on behalf of the respondents 1 and 2. The claim for payment of interest could be entertained only in the event of the application form was complete in all respects in terms of the above paragraphs. In



the absence of confirmation or verification of the death of the employee concerned, the official respondent could not said to have failed without sufficient cause to settle a claim complete in all respects within twenty days.

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8. In the above circumstances, this Court is of the view that the claim made by the petitioner for interest is unsustainable and cannot be countenanced both in law and on facts. Therefore, the writ petition is devoid of merits and the same stands dismissed. No costs.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsk

To

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Sub Regional Office,
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W.P.No.13851 of 2020

GPL (CO)
PM/13/12/2021