



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

W.P.No.9383 of 2014
and WMP.No.8847 of 2021

M/s.Icon House Hold Products Pvt.Ltd.,
Rep.by its Managing Director
D.Sivasankaran,
Plot No.3075, 13th Main road,
'Z' Block, 4th street,
Shanthi Colony, Anna Nagar,
Chennai 600 040

... Petitioner

Vs

1. The Assistant Commissioner (Comp)
Employees Provident Fund Organisation
Sub-Regional Office
(Ministry of Labour & Employment,
Government of India)
101, 100 Feet road,
Sree Venni Commercial Complex
Cholan Nagar,
Olandai Kerapalayam
Puducherry 605 004.
2. The Recovery Officer,
Employees Provident Fund Organisation
Sub-Regional Office,
(Ministry of Labour & Employment,
Government of India)
101, 100 Feet road,
Sree Venni Commercial Complex
Cholan Nagar,
Olandai Kerapalayam
Puducherry 605 004.
3. The Official Liquidator
Madras High Court, Corporate Bhavan,
2nd floor, Rajaji Salai, Chennai 600 001. ... Respondents

R3 impleaded vide order dated 30.06.2021 made in
WMP.No.30602 of 2019 in W.P.No.9383 of 2014 by SVNJ



Prayer:- This Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to consider the petitioner's application dated 21.03.2014 filed under Section 7A of the EPF Act before the 1st respondent and conduct the enquiry and pass orders on merits within a period fixed by this Court.

For Petitioner : Mr.Vijayakumar

For Respondents: Mrs.V.J.Latha

ORDER

This writ petition has been filed to direct the respondents to consider the petitioner's application dated 21.03.2014 filed under Section 7A of the EPF Act before the 1st respondent and conduct the enquiry and pass orders on merits within a period fixed by this Court.

2. Learned counsel for the Respondents represented that the petitioner had earlier approached this Court by filing a Writ Petition in W.P.No.7872 of 2014 challenging the order dated 19.03.2014 and this Court did not entertain the writ petition on the ground of availability of alternative remedy of appeal. However, the petitioner, without preferring any appeal under Section 7-I of the EPF Act, chose to file a Review Petition under the provisions of the Act.

2.1. It is further represented that insofar as W.P.No.9383 of 2014 is concerned, there was an interim order granted upto 04.06.2014 and in the interregnum period, the EPFO has rejected the Review Petition filed by the petitioner.

3. Heard the learned counsel on either side.

4. It is seen that admittedly, the petitioner, without exhausting the appeal remedy under Section 7-I of the EPF Act, has straightaway approached this Court. Further, the petitioner, instead of putting forth the defence available to him before the Authorities by filing an Appeal, has adopted the tactics of filing writ petitions one after another, so as to protract the proceedings, issued on 19.02.2014 in respect of recovery of arrears of amount, viz., Rs.1,34,383/-. Now almost seven years have gone-by and the petitioner, without availing the alternative remedy has filed this writ petition.

5. It is represented that the Company is under the process of liquidation and the proceedings are with the official liquidator. If that is the case, it is open to the employees/EPFO to get the monetary benefits due to them in terms



of Sections 325 to 327 of the Companies Act, 2013. When the petitioner / Management has not availed the alternative opportunity at the earliest point of time, the contention raised by them that the action initiated by the EPFO, by way of passing a non-speaking order does not hold good, cannot be entertained at this stage.

6. Hence, for the above reasons, the Writ Petition is dismissed as devoid on merits. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

dpq

To

1. The Assistant Commissioner (Comp)
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+1cc to Mr.M.Vijayakumar, Advocate, S.R.No.33198

W.P.No.9383 of 2014
and WMP.No.8847 of 2021

GJ(CO)
CB(18/08/2021)