



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE M. S. RAMESH

W.P. (MD) No.5849 of 2020

and

W.M.P. (MD) Nos.5077 & 5078 of 2020

WEB COPY

Nagercoil Municipal Corporation,
represented by its Commissioner,
Nagercoil,
Kanyakumari District.

...Petitioner

Vs.

1. The Regional Provident Fund Commissioner-II,
Employees' Provident Fund Organization,
(Ministry of Labour and Employment,
Government of India), Regional Office, 65A,
Water Tank Road, Nagercoil-629 001.

2. The Assistant Commissioner,
Employment Provident Fund Organization,
Nagercoil Region, Kanyakumari District.

3. The Branch Manager,
Indian Bank Branch, Nagercoil Branch,
165, Women's Christian-College Road,
Nagercoil-629 001.

4. The Branch Manager,
State Bank of India, SME Branch,
14-b, Distillery Road, Vadasery,
Nagercoil-629 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the impugned orders passed by the first respondent dated 31.12.2019 in No.TN/NGL/ENF/C32/79435/7A proceedings/2019 and consequential order passed by the first respondent in No.TN/NGL/Enf/C.32/79435/8F/2019 dated 12.03.2020 and quash the same.

For Petitioner : Mr.K.Chellapandian
Additional Advocate General
for Mr.P.Athimoolapandian
For R-1 & R-2 : Mr.K.Gurunathan
Standing Counsel

O R D E R

Heard Mr.K.Chellapandian, learned Additional Advocate General assisted by Mr.P.Athimoolapandian, learned counsel appearing for the petitioner and Mr.K.Gurunathan, learned Standing counsel appearing for the respondent Nos.1 and 2.



2. The orders impugned in the present writ petition are the original order passed by the first respondent dated 31.12.2019 vide proceedings in No.TN/NGL/ENF/C32/79435/7A proceedings/2019 under Section 7A of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 and the consequential order passed by the first respondent under Section 8F of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 (hereinafter referred as "the Act") vide proceedings in No.TN/NGL/Enf/C.32/79435/8F/2019 dated 12.03.2020.

3. The learned Additional Advocate General appearing for the petitioner would submit that though they had initially not challenged the order passed under Section 7A(1) of the Act, they are willing to avail the appeal remedy, this Court may take a lenient view and extend some time for preferring an appeal.

4. Taking note of the submissions made by the learned Additional Advocate General appearing for the petitioner and by extending a lenient view, the petitioner herein is granted liberty to file an appeal against the original order passed under Section 7A (1) of the Act, within a period of thirty (30) days from the date of receipt of a copy of this order.

5. In the event of filing an appeal before the Tribunal (Employee Provident Fund Appellate Tribunal), the Tribunal is called upon to entertain the appeal, without insisting for an application to condone the delay or seeking for any pre-deposit and dispose of the appeal on its own merits and pass appropriate orders in accordance with law as expeditiously as possible. In view of the liberty granted, the consequential order passed by the first respondent in No.TN/NGL/Enf/C.32/79435/8F/2019 dated 12.03.2020 is quashed.

6. Incase the petitioner fails to prefer the appeal as stated above, the earlier order passed under Section 8F of the Act shall be revived and the respondents would be at liberty to proceed with the same in accordance with law, without any further orders of this Court.

7. With the above observations, the Writ Petition stands disposed of accordingly. No costs.

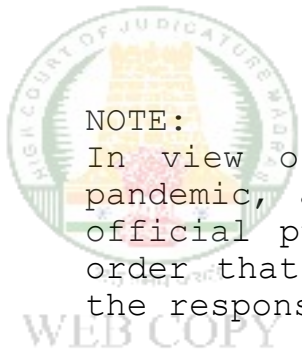
Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



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.

To

1. The Regional Provident Fund Commissioner-II,
Employees' Provident Fund Organization,
(Ministry of Labour and Employment,
Government of India), Regional Office, 65A,
Water Tank Road, Nagercoil-629 001.
2. The Assistant Commissioner,
Employment Provident Fund Organization,
Nagercoil Region, Kanyakumari District.
3. Nagercoil Municipal Corporation,
represented by its Commissioner,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.P.ATHIMOOLAPANDIAN, Advocate (SR-8099[F] dated 02/03/2021)

+1 CC to M/s.K.GURUNATHAN, Advocate (SR-8353[F] dated 03/03/2021)

W.P. (MD) No.5849 of 2020

Dated :

02.03.2021

SSS(CO)

KB(17.03.2021) 3P 6C