



WEB COPY

WA.[MD]No.1449 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. [MD]No.1449 of 2021

and

C.M.P. (MD) No.5942 of 2021

B.Sundari ... Appellant / Writ Petitioner

Vs.

The Assistant Provident Fund Commissioner,
E.P.F.Organisation,
Sub-Regional Office,
N.G.O. "B" Colony,
Tirunelveli District.

... Respondent / Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 29.03.2021 in W.P.(MD) No.14315 of 2011 on the file of this Court.

Prayer in WP(MD). 14315/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARI, to call for the records of the impugned order of the Respondent in File No.TN/TNY/55635/Enf./Circle 11/14105/2011, dated 07-12-2011 and quash the same.

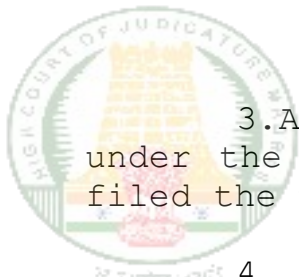
For Appellant : M/s.Porkodi Karnan

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

We have heard Mrs.Porkodi Karnan, learned Counsel appearing for the Appellant/Writ Petitioner.

2.This writ appeal has been filed by the writ petitioner questioning the order, dated 29.03.2021 passed in W.P.(MD) No. 14315 of 2011, by which the order dated 07.12.2011, passed by the respondent, the Assistant Provident Fund Commissioner, has been affirmed.



3. Admittedly, the appellant has got an alternate remedy under the Act and without exhausting the same, the appellant has filed the writ petition.

4. In fact preliminary objection to the said effect has also been raised by the respondent Organisation in the writ petition by filing a counter affidavit.

5. The learned counsel for the appellant submitted that there are factual errors committed, which led to the dismissal of the writ petition. If that is so, it is all the more incumbent upon the appellant to approach the Appellate Authority.

6. We are conscious of the fact that the writ petition was pending from the year 2011. However, since the appellant states that there are factual errors committed, they have got documents to establish the same.

7. We are of the view that the appellant can be granted liberty to file an appeal before the Appellate Authority. If an appeal is filed as of now, it will be barred by limitation. Therefore, while we are inclined to give liberty to the appellant to file an appeal, we make an observation that the period during which writ petition was pending till the receipt of the certified copy of this judgment shall be excluded while computing limitation for filing an appeal.

8. Accordingly, the Writ Appeal stands disposed of, by granting liberty to the appellant to file an appeal before the Appellate Authority under the Act, questioning the correctness of the order, dated 07.12.2011 passed by the respondent. As observed earlier, the period during which the writ petition was pending till the receipt of the certified copy of this judgment shall be excluded while computing limitation by the Appellate Authority. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

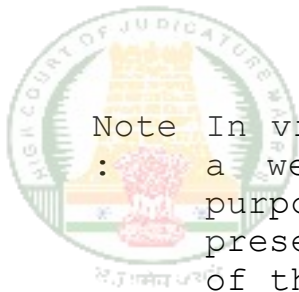
Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar (CS)

RM



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.

WEB COPY

To
The Assistant Provident Fund Commissioner,
E.P.F.Organisation,
Sub-Regional Office,
N.G.O. "B" Colony,
Tirunelveli District.

+1 CC to M/s.POLAX LEGAL SOLUTIONS, Advocate (SR-23830[F] dated
26/07/2021)

JUDGMENT MADE IN
W.A. [MD]No.1449 of 2021

26.07.2021

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