



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

W.P(MD) No.4258 of 2015

S. Royce Emmanuel

:Petitioner

..VS..

1.All India Council For Technical Education,
Southern Regional Office,
Shasthri Bhavan,
26, Haddows Road,
Nungambakkam,
Chennai - 600 006.

2.Thiagarajar School of Management,
Pamban Samy Nagar,
Thirupparankundram,
Madurai - 625 005.
Rep. By its Correspondent Thiru Manikam Ramasamy.

3.The Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
Regional Office, Lady Doak College Road,
Chokkikulam, Madurai - 625 002. : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a Writ in the nature of Writ of Mandamus directing the third respondent to take action on 2nd respondent for violation of Employee's Provident Fund Act and pay the Employees Provident Fund to the petitioner.

For Petitioner	: Mr. T. Ravichandran
For 1 st Respondent	: Mr. N. Dilipkumar
For 2 nd respondent	: Mr. M.E. Ilango
For 3 rd respondent	: Mr. A. John Xavier

O R D E R

The present Writ Petition is filed for issuing a direction to the third respondent to take action on 2nd respondent for violation of Employee's Provident Fund Act and pay the Employees Provident Fund to the petitioner.



2. The petitioner was appointed in the 2nd respondent Management School as an Administrative Assistant on 14.11.1994. On 01.11.1999 he has issued Hall Tickets and created an unpleasant atmosphere in the school management. Thereafter, an enquiry was conducted and action was dropped, the petitioner was reinstated on 01.7.2000. The contention of the petitioner is that the Director of Management called the petitioner and forced to resign on 13.08.2003. The petitioner withdrew the resignation letter. The petitioner's contention is that the second respondent management school has more than 20 employees and the management is not complying the statutory requirements and has not deducted any EPF and has not remitted to the third respondent. Therefore, the petitioner has filed this petition for Writ of Mandamus directing the third respondent EPF authority to take action against the second respondent for violating the EPF Act.

3. The first respondent is a formal party. The second respondent College has filed a counter stating the petitioner has resigned the post in the year 2000 itself and was relieved from service and the statutory benefits were paid to him. The petitioner preferred the complaint alleging the second respondent is not complying the statutory requirement of EPF. Thereafter, the third respondent has initiated action against the second respondent and visited the premises and after thorough scrutiny, the third respondent has come to the conclusion that the second respondent is not deducting the EPF but is deducting PPF. Thereafter, the EPF squad also visited the second respondent and the squad submitted a report dated 20.05.2014 in that report also it was confirmed the second respondent has deducted PPF and not EPF, for this the second respondent has submitted a copy of the wage Register for 04/2005 to 02/2006 and Ledger for 01.04.2005 to 31.03.2006. The EPF Squad also forwarded a letter to the Madurai Kamaraj University which is a recognized authority with a request to make arrangements to verify the record and the University has submitted a reply dated 28.05.2014 that the particulars for the year 2013 alone is available with them. Thereafter, the squad requested the petitioner vide letter dated 09.06.2014 to produce the proof to substantiate the petitioner's claim and till date petitioner has not produced any document to the third respondent. Therefore the entire claim of the petitioner is baseless and false and prayed to dismiss the petition.

4. The third respondent has also submitted that the strength of the organization crossed 20 and therefore, the second respondent establishment was brought under EPF with effect from 01.05.2006 vide proceedings, dated 22.11.2006. The third respondent also confirmed the establishment has not crossed the strength earlier and as and when it crossed the establishment was brought under EPF.

5. Heard the learned counsel appearing on either side and perused the materials available on record.



6. The learned counsel appearing for the second respondent submitted that the petitioner had worked in the second respondent institution only upto the year 2000. The preservation of records would be only for 8 years and therefore, the period during which the petitioner served in the college is not available with the second respondent. The second respondent also submitted that alleged complaint before the third respondent is in the year 2014 and the petitioner after the lapse of 14 years has preferred this complaint and hence prayed that the petition is liable to be dismissed.

7. The second respondent has also submitted that the institution was having staff less than 20. Therefore, the institution was not registered under EPF. Even as per the records submitted by the petitioner before this Court the Attendance Register would clearly indicate that the strength was increased in May 2006 for which the petitioner relied on the following:

*THIYAGARAJAR SCHOOL OF MANAGEMENT
MADURAI - 625 005*

ABSTRACT OF ATTENDANCE FROM THE DATE OF STARTING OF OUR COLLEGE TO DATE

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1986				3	5	5	5	5	5	5	5	5
1987	5	5	5	5	5	5	5	5	5	5	5	5
1988	5	5	5	5	5	5	5	5	5	5	5	5
1989	5	5	5	5	5	5	5	5	5	5	5	5
1990	5	5	5	5	5	5	5	5	5	5	5	5
1991	5	5	5	5	5	5	5	5	5	5	5	5
1992	5	5	5	5	5	5	5	5	5	5	5	5
1993	5	5	5	5	5	7	7	7	7	7	7	7
1994	7	7	7	7	7	7	7	7	7	7	7	7
1995	7	7	7	7	7	7	7	7	7	7	7	7
1996	7	7	7	7	7	7	7	7	7	7	7	7
1997	7	7	7	7	7	7	7	7	7	7	7	7
1998	7	7	7	7	7	7	7	7	7	7	7	7
1999	7	7	7	7	12	12	12	12	12	12	12	12
2000	12	12	12	12	12	12	12	12	12	12	12	12

*THIYAGARAJAR SCHOOL OF MANAGEMENT
MADURAI - 625 005*



ABSTRACT OF ATTENDANCE FROM THE DATE OF STARTING OF OUR COLLEGE TO DATE

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2001	12	12	12	12	12	12	12	12	12	12	12	12
2002	12	12	12	12	13	13	13	13	13	13	13	13
2003	15	15	15	15	15	15	15	15	15	15	15	15
2004	15	15	15	15	15	15	15	15	15	15	15	15
2005	15	15	15	15	17	12	17	17	17	17	17	17
2006	17	17	17	17	22	21	22	21				

Out of 21 employees 19 employees are drawing more than Rs.6,500/- Detail of Pay and Allowance are furnished in a separate statement which is enclosed herewith.

8. As rightly pointed out by the second respondent, even as per records submitted by the petitioner the strength had increased only during May 2006. Therefore it is unknown why the petitioner has filed this petition when there is no cause of action.

9. It is pertinent to note that the 3rd respondent vide proceedings No. TN / MD / M2 / TN7819 / ENF / 2006 dated 22.11.2006 has brought the institution under the EPF Act with effect from 01.05.2006. The second respondent submitted that from 01.05.2006 to 30.11.2006 the employer has paid the amount for both the employees and employer contribution and has not deducted the amount from employees and the institution has acted magnanimously. The counsel for the second respondent further submitted that even though the strength has not crossed 20, the institution as a welfare measure to its employees have covered under PPF. The amounts so deducted were duly remitted into individual PPF accounts of the respective employees maintained with the State Bank of India and the respective employees would have also duly received the same when they left from employment.

10. The petitioner contended that the third respondent in the counter has stated in the counter in paragraph No.14 that "the Attendance Register for May 2004, Brochure 2001 staff list of total strength 27" and therefore the institution is liable under EPF Act. The learned Counsel for the third respondent clarified this as a typographical error and the second respondent institution was inspected twice and one by the surprise squad and it was noted that only from May 2006 only the strength was increased and hence vide the proceedings dated 22.11.2006 the institution was brought under the purview of the Act with effect from 01.05.2006.

11. Considering the submissions of the learned counsel for the second respondent, this Court is of the considered opinion that there



is no infirmity as alleged by the petitioner. Hence, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (AD-II)

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Sub Assistant Registrar(CS)

trp

To

1.All India Council For Technical Education,
Southern Regional Office,
Shasthri Bhavan,
26, Haddows Road,
Nungambakkam,
Chennai - 600 006.

2.The Correspondent
Thiru Manikam Ramasamy
Thiagarajar School of Management,
Pamban Samy Nagar,
Thirupparankundram,
Madurai - 625 005.

3.The Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
Regional Office, Lady Doak College Road,
Chokkikulam, Madurai - 625 002.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-40288[F] dated 23/12/2021)
W.P(MD) No.4258 of 2015
21.12.2021

MMS (CO)

GC(12.01.2022) 5P 5C