



WEB COPY



Cont.P.No.1033 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

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Amman Wovensacks Employees Union,
(Regn.No.RTU 1042/96),
Rep. by its President,
No.42, Cuddalore Road,
Bharathi Mill Thittu, Mudaliarpet,
Puducherry – 605 004.

... Petitioner

VS

1.S.Janarthanan,
Regional Provident Fund Commissioner,
Employees Provident Fund,
Sub Regional Office,
Mudaliarpet, Puducherry – 605 004.

2.The Tamil Nadu Industrial Investment Corporation Ltd.,
No.60/1B, 1st Floor, Imperial Plaza,
Opp. SIDCO Industrial Estate,
Nellikuppam Main Road, Cuddalore – 607 001.

3.The Indian Bank,
Cuddalore Main Branch,
Rep. by its Assistant General Manager,
AVR Towers, No.4, Bharathi Road,
Cuddalore – 607 001.

... Respondents

[R2 & R3 – exonerated from the array of parties
as per the order of the court dated 23.06.2022
made in Cont.P.No.1033 of 2021]



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Prayer: Contempt Petition under Section 11 of the Contempt of Courts Act, 1971 to punish the respondent under Section 11 of the Contempt of Courts Act, 1971 for deliberately and wilfully disobeying the orders of this Court dated 04.11.2020 in W.P.No.33576 of 2012.

For Petitioner : Mr.N.G.R.Prasad
for M/s.Row and Reddy
For R1 : Mrs.V.J.Latha
For R2 & R3 : Exonerated

ORDER

This Contempt Petition has been filed for the alleged disobedience of the orders of this Court dated 04.11.2020 made in W.P.No.33576 of 2012.

2.In the said writ petition, this Court has passed the following order:

“5.Considering the said submissions made by both sides, this Court is inclined to dispose of the Writ Petition with the following order:

“(i) That the first respondent is hereby directed to withdraw the amount deposited from the side of the Management towards the distribution of Provident Fund due payable to each of the employees who are the members of the petitioner-s union and accordingly after



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receipt of the said amount by way of withdrawal, the due payable to each of the employees who are the members of the petitioner-s union in respect of Provident Fund amount calculated, be paid.

(ii) The said exercise shall be undertaken by the first respondent within a period of eight weeks from the date of receipt of a copy of this order.”

6. With these directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.”

3.Pursuant to the order passed by this Court dated 04.11.2020, the first respondent has withdrawn a sum of Rs.35,00,000/- (Rupees Thirty Five Lakhs only), which has been deposited by the Tamil Nadu Industrial Investment Corporation Ltd. (in short, 'the TIIC') in a fixed deposit as directed by this Court by order dated 12.08.2009 in W.P.No.19854 of 2008, which is a connected writ petition, under which, other reliefs were also sought for by the petitioner Union.

4.After withdrawing the said amount of Rs.35,00,000/-, which was



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deposited by the TIIC as stated *supra*, the remaining amount by way of accruing interest to the extent of Rs.24,49,852/- was taken back by TIIC and this was brought to the notice of this Court in the contempt proceedings and pursuant to the order passed by this Court, the said amount of Rs.24,49,852/- (i.e., Principal amount of Rs.35,00,000/- (+) interest, i.e., Rs.59,49,852/- (-) Rs.35,00,000/- (principal), the remaining amount of Rs.24,49,852/-) appropriated by the TIIC has been redeposited in a fixed deposit account in FDR No.7233071793.

5.Out of Rs.35,00,000/- withdrawn by the first respondent Provident Fund authorities, since they collected the Provident Fund due with the following calculation, they paid a sum of Rs.30,72,946/- to the petitioner's Employees Union/its members towards Provident Fund contribution due as well as interest:

<i>S.No.</i>	<i>NATURE OF DUES</i>	<i>PERIOD OF DEFAULT</i>	<i>AMOUNT OF DEFAULT IN RUPEES</i>
1	7A (PF CONTRIBUTION)	6/2003 TO 7/2008 AND FROM 7/2001 TO 10/2002	RS.10,59,908/-
2	14B (DAMAGES)	6/2003 TO 7/2008	RS.10,48,660/-
3	7Q (INTEREST)	6/2003 TO 7/2008	RS.20,13,038/-
TOTAL DUES			RS.41,21,606/-



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6. Therefore, a sum of Rs.10,59,908/- has been paid as Provident Fund due under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (in short, 'the Act') and Rs.20,13,038/- was paid under the heading "Interest" under Section 7Q of the Act, totally a sum of Rs.30,72,946/-.

7. Therefore, there is no due payable to the petitioner Union for its members towards Provident Fund contribution due as well as its accrued interest.

8. However, insofar as the Gratuity and Bonus, that was due according to the petitioner Union at the time of filing this writ petition, which was a sum of Rs.25,43,408/- and a calculation to that effect in respect of each member of the petitioner Union towards Gratuity and Bonus for the year 2007 – 2008 had been filed in the writ petition. Therefore, that amount of Gratuity and Bonus for a sum of Rs.25,43,408/- with interest, though in fact is a due payable to the members of the



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petitioner Union, now, since only a sum of Rs.24,49,852/- alone is available, that can be taken and distributed for the purpose of Gratuity and Bonus.

9.That apart, it is the contention of Mr.N.G.R.Prasad, learned counsel appearing for the petitioner that, out of Rs.35,00,000/- withdrawn by the Provident Fund authorities after paying a sum of Rs.30,72,946/- towards the Provident Fund due as well as the interest, the remaining amount to the extent of Rs.4,27,054/- had been appropriated by the Provident Fund authorities towards the damages to be calculated from the employer under Section 14B of the Act. Only in respect of this appropriation, the learned counsel appearing for the petitioner submits that if at all any damages to be calculated from the employer, that should have been calculated only from the employer and in this regard, the due payable by the petitioner if not under the PF head, but under any other head like Gratuity and Bonus, for which alone this amount has been deposited or was directed to be deposited by the orders of this Court, cannot be utilized or appropriated by the Provident Fund authorities.



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10.*Per contra*, Mrs.V.J.Latha, learned counsel appearing for the first respondent Provident Fund authorities, would submit that the entire Provident Fund due with interest to the extent of Rs.30,72,946/-, admittedly, had been paid to the petitioner. Therefore, insofar as the Provident Fund due is concerned, they have no grievance. From the point of view of the Provident Fund authorities, they are entitled to seek damages under Section 14B of the Act and since the Management has already wound up the company, there is no scope for recovery by way of damages. Therefore, Provident Fund authorities did not have any other way to recover the damages to the extent of Rs.10,48,660/- except from this amount i.e., the remaining amount as well as the accrued interest, which is now lying at the fixed deposit account as stated *supra* and therefore, out of this Rs.10,48,660/-, since only a sum of Rs.4,27,054/- alone has been appropriated, the remaining amount of nearly about Rs.6,00,000/- and above have to be still appropriated by the Provident Fund authorities from the said amount of Rs.24,49,852/- lying in the fixed deposit account referred above.



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WEB COPY 11.I have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

12.Insofar as the orders passed by this Court in the said writ petition by order dated 04.11.2020, that the Provident Fund authorities was directed to withdraw the amount deposited from the side of the Management towards distribution of Provident Fund due payable to each of the employees, who the members of the petitioner Union and accordingly, after receipt of the said amount, by way of withdrawal, the due payable to each of the employees, who are the members of the petitioner Union in respect of the Provident Fund amount calculated, be paid.

13.Therefore, the only job entrusted to the Provident Fund authorities is to withdraw the said amount whatever is required for the purpose of contribution as well as interest to the members of the Petitioner Union.



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WEB COPY 14. Therefore, there was no direction to the Provident Fund Authorities to appropriate the amount, which are recoverable from the employer by way of damages under Section 14B of the Act. Therefore, this Court feels that such an appropriation, by the Provident Fund authorities cannot be made from the remaining amount to the extent of Rs.10,48,660/- and out of which, the appropriation now has been made to the extent of Rs.4,27,054/- is also beyond the scope of the direction given by this Court in the said writ petition as cited *supra*.

15. If at all the Provident Fund authorities want to recover the damages from the employer, they can do so under Section 14B of the Act and in respect of which, the employees due which is otherwise payable to the employees under various heads like Gratuity and Bonus cannot be appropriated by the Provident Fund authorities. Therefore, this Court has no hesitation to hold that unless the Provident Fund authorities return back the said amount of Rs.4,27,054/- which having been appropriated from Rs.35,00,000/- and re-deposit the same in the Bank account for the purpose of disbursing the same to the members of the petitioner Union, it



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can be considered as a contempt.

WEB COPY 16. Therefore, this Court is of the view that this Contempt Petition for the time being can be closed with the following order with a liberty to the petitioner to re-agitate the same if still there is any contempt in future as the direction given herein below is not complied with by the respondent:

(i) that the Provident Fund authorities is hereby directed to re-deposit a sum of Rs.4,27,054/- in the bank account, in which a sum of Rs.24,49,852/- is already lying, within a period of 30 days from the date of receipt of a copy of this order.

(ii) On such deposit being made, the Deputy Commissioner of Labour, Puducherry is hereby directed to withdraw the said amount of Rs.24,49,852/-, which is lying in the fixed deposit account bearing FDR No.7233071793 at Indian Bank, Cuddalore Main Branch along with a sum of Rs.4,27,054/- to be deposited by the Provident Fund authorities as directed above and this total amount can be evenly distributed as per the entitlement of the members of



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the petitioner Union, namely Amman Wovensacks Employees Union and the said exercise of distributing the amount towards Gratuity and Bonus to the members of the petitioner Union shall be undertaken by the Deputy Commissioner of Labour, Puducherry within a period of 30 days thereafter.

17. With these directions, this Contempt Petition is closed with the aforesaid liberty.

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Index : Yes/No

Internet : Yes/No

Speaking order/Non-speaking order

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R. SURESH KUMAR, J.

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