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W.P.No. 21615 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No. 21615 of 2019

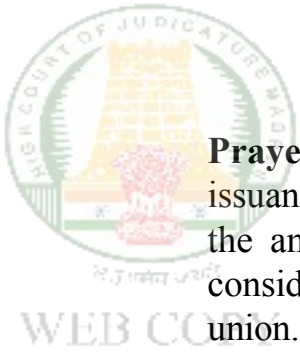
Appollo Tubes Employees Union
Represented by its General Secretary Mr. A. Philip
Plot No. 47, 48,
Ramanujar Street,
Rabi Nagar, Walaja,
Vellore – 632513.

... Petitioner

Vs.

1. The Provident Fund Commissioner,
No. 37, Opp. Swagat Hotel,
Royapettah High Road,
Chennai – 600 014.
2. The Regional Provident Fund Commissioner – I,
Employees Provident Fund Organisation
S-1, TNHB, Phase – III, Sathuvachari
Vellore – 632 009.
3. The Official Liquidator
Attached to High Court of Delhi,
8th Floor, Lok Nayak Bawan,
Khan Market,
New Delhi – 110003.
4. The Assistant Commissioner of Labour -1,
Labour Department integrated building,
ITI Compound,
Amman Nagar, Melmonavoor, Vellore – 632010
(R4 impleaded vide order dated 29.09.2020 made in
WMP. No. 17155/2020 in W.P.No. 21615/2019 by PDAJ)

... Respondents



Prayer : Writ Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the second respondent to disperse the amount of Provident Fund to the members of the petitioner union by considering the Form – 6A dated 04.04.2019 submitted by the petitioner union.

For Petitioner	: Mr. G. Pugazhenthir
For Respondents	: Mrs. V.J. Latha
	for EPF
	for respondents 1 and 2
	Mr. G Nanmaran
	Special Government Pleader
	for respondent 4
	respondent 3- Not ready in notice

ORDER

A writ of mandamus has been filed directing the second respondent to disburse the amount of provident fund of the members of the petitioner union.

2. The learned counsel for the petitioner made a submission that this Court passed an order on 29.09.2020 asking the fourth respondent/labour officer to conduct an enquiry and submit a report to the second respondent with all enclosures for the purpose of settling the provident fund benefits. Though two years lapsed, the fourth respondent could not able to submit a report to the second respondent. When the matter is taken up for final hearing, even before this Court, the fourth respondent has not furnished any document.

3. The learned Special Government Pleader appearing on behalf of the



fourth respondent made a submission that the petitioner union has not produced all the relevant records for the purpose of identifying the workmen.

In the absence of records, the fourth respondent will not be in a position to identify the workmen for the purpose of submitting a report to the second respondent Regional Provident Fund Commissioner -I.

4. Ms. Rituraj Medhi, Regional PF Commissioner, Vellore, appeared and made a submission that in the event of furnishing complete details of the individual workman, the provident fund organization will be in a position to disburse the benefits as per the provisions of the Act.

5. Even after two years, the writ petitioner union has not co-operated with the labour officer for the purpose of identifying the workmen for settling the Provident Fund benefits. When the petitioners themselves are not co-operating for the purpose of identification of workmen, the fourth respondent is not in a position to resolve the issues.

6. When this Court suggested that the Official Liquidator/third respondent will be possessing the revenue records, the learned counsel for the writ petitioner states that the office of the third respondent liquidator is in



New Delhi. However, the petitioner union shall approach the local office of the Official Liquidator or contact the third respondent for the purpose of identification of the workmen with reference to the records available and submit a report along with complete details of the individual workmen enabling the second respondent to disburse the Provident Fund benefits.

7. This Court is of the considered opinion that without proper identification the court cannot direct the second respondent to settle the provident fund benefits. Identification is the primary requirement which is to be taken into consideration for the purpose of issuing a direction to the second respondent. The second respondent Provident Fund authorities cannot identify the workmen since company was already wound up and the Liquidator was appointed. Thus the Official Liquidator/third respondent is in possession of all the document of the company and therefore the petitioner union is at liberty to approach the Official Liquidator/third respondent and produce all the relevant documents for the purpose of identifying the eligible workmen. In the event of submitting all such particulars, the Official Liquidator can verify the original records and accordingly furnish the details of the individual workmen who are all eligible for provident fund benefits and based on such report, the second respondent shall disburse the provident fund



benefits by following the procedures as contemplated under the statute and rules in force.

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8. With this liberty, the writ petition stands disposed of. No costs.

16.11.2022

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Index : Yes / No

Speaking order / Non-Speaking order

To

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S.M.SUBRAMANIAM, J.



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