



W.P.(MD)No.15264 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2022

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.15264 of 2012

and

W.M.P.(MD)No.10938 of 2022

and

M.P.(MD)Nos.1 of 2012

The Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
Regional Office,
No.1, Lady Doak College Road,
Chokkikulam,
Madurai – 625 002.

... Petitioner

Vs.

1. The Presiding Officer,
Employees Provident Appellate Tribunal.
New Delhi.

2. M/S.SSM Fine Yarns,
Eluvanpatti,
Periyakulam Road,
Batlagundu – 624 202,
Dindigul District.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order, dated 09/02/2012 made in ATA.No. 734(13) 2010 on the file of the first respondent and quash the same.

For Petitioner : Mr.K.Murali Sankar

For R1 : Tribunal

For R2 : Mr.M.Elanchezian

ORDER

This Writ Petition is filed to quash the impugned order, dated 09.02.2012 passed in ATA.No. 734(13) 2010 on the file of the first respondent.

2. The contention that is raised before this Court is that the EPF Organization has taken the definition stated in the Minimum Wages Act and trying to fix the basic wages. The learned Counsel appearing for the second respondent submitted that the Employees Provident Fund Act defines the basic wages. In such circumstances the EPF organisation



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cannot invoke Minimum Wages Act for the same definition and relied on the judgment rendered by ***Punjab & Haryana High Court, Assistant Provident Fund Commissioner vs. M/S.G4S Security Services (India)***

Ltd. & Another. In the said judgment it has been held as under:

‘5. The above view of the Tribunal has been upheld by learned Single Judge as follows:-

"It is thus evident that under the provisions of the [Employees Provident Fund Act](#), the definition of wage has an appended exclusion clause in which the various allowances which are quite broad in nature have been provided so as to enable the employee to determine its liability to make the contribution to the fund.

[The Minimum Wages Act](#) on the other hand provides for a definition of wage which is distinct from that of the basic wage and that definition of wage includes within its ambit House Rent Allowance but does not include certain other allowances which are being detailed therein.

The objects and reasons of both the statutes are manifestly distinct even though they converge on the beneficial aspect of the welfare of an employee. The laws of interpretation of statute also provides that nothing more is to be read into the language of a statute and the words are to be read and interpreted as they exist to acknowledge the legislative intent.

Having regard to the aforesaid, there is little hesitation to hold that the contention of the learned counsel for the petitioner is mis-placed and that the respondents have rightly excluded certain allowances such as House Rent Allowance, washing allowance and conveyance allowance while determining their liability towards the fund."

6. We have heard learned counsel for the parties.

7. Learned counsel for the appellant submits that the view taken by the Commissioner was consistent with the spirit of the Act and for computing



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contribution under [Section 6](#), 'basic wage' could not be taken to be less than minimum wage.

6. We are unable to accept the submission. The statute having defined the term 'basic wage' which for the purposes of the Act could not be less than the minimum wage, there was no compulsion to hold that the definition of 'basic wage' should be equated to the definition of 'minimum wage' under the [Minimum Wages Act](#), 1948. No doubt wage less than minimum wage in violation of law cannot be paid but it does not imply that for calculation of contribution for [EPF Act](#), the employer could not follow statutory provisions of the said Act which permits contribution to be computed with reference to 'basic wage' as defined thereunder.

7. We, thus, do not find any error in the view taken by learned Single Judge.”

3. Therefore, this Court is also convinced that the EPF Organization cannot invoke the provisions that is stated in the Minimum Wages Act, in order to calculate the basic wages prescribed under EPF Act. If the Act is having definition in unambiguous words, then the petitioner Organization is not having power to invoke some other provisions. Therefore, the order passed by the Tribunal is legally sustainable.

4. For the reasons stated above, this Writ Petition is dismissed. No



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costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Internet : Yes / No

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To
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Employees Provident Appellate Tribunal.
New Delhi



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S.SRIMATHY, J

jbr

Order made in
W.P.(MD)No.15264 of 2012

11.11.2022