



W.P.(MD).Nos.13358 and 13359 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:05.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.(MD).Nos.13358 and 13359 of 2013

and

M.P.(MD).Nos.1, 1, 2 and 2 of 2013 and 3717 of 2022

P.Chockalingam

... Petitioner in both W.Ps.

vs.

1.The Assistant Provident Fund Commissioner,
E.P.F.Office,
Lady Doak College Road,
Madurai.

2.The Enforcement Officer,
E.P.F.Office,
Andipatty,
Theni District.

... Respondents in both W.Ps.

PRAYER in W.P.(MD).No.13358 of 2013: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call for the records relating to the proceedings in No.TN/RO/MDU 57325/M3/PDC/LD/2013, dated 03.07.2013 on the file of the first respondent herein and quash the same.

PRAYER in W.P.(MD).No.13359 of 2013: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of



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Certiorari to call for the records relating to the proceedings in No.TN/57325/M31/7Q PDC/MDU/13, dated 28.06.2013 on the file of the first respondent herein and quash the same.

For Petitioner : Mr.V.Shathurthi Raja
for Mr.S.Kadarkarai
For Respondents : Mr.K.Muralisankar

COMMON ORDER

When the matters are taken up, the learned counsel for the respondents submitted that there is an appeal remedy provided under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. Without resorting to the appeal remedy, the petitioner has directly approached this Court. Therefore, these writ petitions are not maintainable.

2. In response, the learned counsel for the petitioner submitted that he may be permitted to withdraw these writ petitions with liberty to file an appeal. He further submitted that he filed these writ petitions immediately after passing of the impugned order. The contribution amount of Rs.6,01,077/- was paid in three installments, during the



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pendency of the writ petition in W.P.No.8141 of 2008. The claim of damages and interest to the tune of Rs.11,02,711/- is unjust, especially when the petitioner's business was closed and the land and building was sold in a public auction sale.

3. Considering the facts of the case, where the petitioner has to pay a huge sum of Rs.11,02,711/- as damages and interest, after his business fell sick, this Court is of the considered view that the petitioner shall be given permission to withdraw the W.P.(MD).No.13358 of 2013 and file an appeal before the authority concerned for disposal, in the manner known to law. The petitioner is directed to file an appeal within a period of sixty days from the date of receipt of a copy of this order and on filing of such appeal, the authority concerned is directed to dispose of the appeal as expeditiously as possible, preferably within a period of eight weeks. Accordingly, the W.P.(MD).No.13358 of 2013 is disposed of.

4. As far as the W.P.(MD).No.13359 of 2013 is concerned, Section 7(1) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, does not cover Section 7(q) which deals with interest payable by the employer. The petitioner is liable to pay interest for the amount



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due. Therefore, this Court directs the petitioner to pay the interest amount claimed in three installments within a period of three months from the date of receipt of a copy of this order. Accordingly, W.P.(MD).No.13359 of 2013 is disposed of. No costs.

05.07.2022

akv

To

- 1.The Assistant Provident Fund Commissioner,
E.P.F.Office,
Lady Doak College Road,
Madurai.
- 2.The Enforcement Officer,
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G.CHANDRASEKHARAN,J.

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