



W.P.(MD)No.14972 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.14972 of 2013

and

M.P.(MD)No. 1 of 2013

The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organization,
Sub-Regional Office, Bhavisyia Nidhi Bhavan,
NGO "B" Colony, Tirunelveli.

... Petitioner

vs.

1. The Presiding Officer,
Employee's Provident Fund Appellate Tribunal,
New Delhi.

2. M/s.Sundaram Textiles Limited,
Nambi Nagar, Nanguneri,
Tirunelveli District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, calling for the records of the impugned order passed by the 1st respondent, dated 14.03.2013 in ATA No. 712(13)2012 and quash the same and direct the 2nd respondent to pay a sum of Rs.24,88,841 as per the order no.TN/TNY/4156/CD-I/T-16/2012, dated 23.07.2012.



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For Petitioner : M/s.K. Murali Shankar
For R-1 : Tribunal
For R-2 : Mr.C.Karthikeyan

ORDER

This Writ Petition is filed to quash the impugned order passed by the 1st respondent, dated 14.03.2013 in ATA No.712(13)2012 and also sought for a direction to the 2nd respondent to pay a sum of Rs.24,88,841/-as per the order No.TN/TNY/4156/CD-I/T-16/2012, dated 23.07.2012.

2. The brief facts as stated in the petition that the 2nd respondent Textiles Limited comes under the Employees' Provident Fund Act. The petitioner organization inspected the 2nd respondent establishment and submitted a report dated 19.05.2008, alleging that the 2nd respondent has failed to enroll 84 eligible employees as members. Based on which, 7(A) Authority has issued summon for determining the dues, for the period from 01/2006 to 03/2008. In order to conduct enquiry, a summon, dated 02.12.2011 was issued for production of related documents and books of accounts etc. The 2nd respondent has appeared on 29.12.2011 and filed remarks of the issues, stating that the establishment have the



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own certified standing orders approved by the JCL Madurai which gives powers to engage the apprentice employees for 3 years of technical qualification and others for five years and the PF contributions and other dues regularly remitted into the fund from 01/2006 to 03/2008 without any default and further submitted that the EPFO inspecting authority after inspected the establishment, they took over the Trainees Muster Roll Register for the period from 01/2006 to 03/2008 maintained by Establishment on 07.05.2008. The Establishment had paid only stipend to the apprentice employees and not paid salary. As per the Provisions of the EPF scheme the apprentice are excluded one and not coming under the purview of the definition of wages as per Section 2(b) of the Act. The EPF organization did not accept the explanation of the 2nd respondent and passed an order, directing the 2nd respondent to enroll the said persons and pay a sum of Rs.24,88,841/-. Aggrieved over the same, the 2nd respondent filed an appeal before the Tribunal. The Tribunal after perused the reports had come to the conclusion that the EPF authority has not rendered any finding that the said persons were engaged as employees. There is no reason to disbelieve that the said persons are Apprentices. Therefore, the order passed by the EPF authority was set aside as illegal. Aggrieved over the same, this Writ Petition is filed.



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3. Heard Mr.K.Murali Shankar, Learned Counsel appearing for the petitioner EPF organisation and Mr.C.Karthikeyan, learned counsel appearing for the 2nd respondent and perused the material documents available on record.

4. The 2nd respondent is a Textiles Limited and has filed typed set of papers, wherein, it is clearly stated that the Limited Hospital is having standing orders and the apprentices were appointed for the period of three years. The apprentices are getting only stipend and attendance allowance. For the purpose of imparting training, the appellant has made arrangements for classrooms, lecturers, experts and other facilities for the training to the trainees.

5. The learned counsel appearing for the 2nd respondent submitted that based on certain agreed terms training will be provided to the apprentices and that the payments are made to them and that they are to be under certain rules of discipline, do not convert them into regular employees under the employer- Sundaram Industries Limited -Vs- R.P.F. Commissioner (1996)3 LLJ (Supp) 260(Kant). He has also produced the Apprentice training stipend register and ledger account for the period from 2004 to 2009. From the above rival



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submission, it would clearly indicate that the EPF organization misunderstood and misconstrued the Apprentice training and there is no evidence to substantiate the claim of the EPF organization. Therefore, this Court is of the considered opinion that the Tribunal has rightly come to the conclusion.

6. On considering the rival submissions, the Writ Petition is not having any merits and the same is liable to be dismissed.

7. Accordingly, this Writ Petition is dismissed. No Costs. Consequently, connected miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes
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29.11.2022

To

The Presiding Officer,
Employee's Provident Fund Appellate Tribunal,
New Delhi.



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S.SRIMATHY, J

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Order made in
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