



W.P.(MD)No.7244 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2022

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

**W.P.(MD)No.7244 of 2012 and
M.P.(MD).No.1 of 2012**

M/s.Winners' Matriculation School,
Represented by its Correspondent,
H.Mohamed Rasheed Khan,
East Coast Road,
Alangadu,
Thiruvavarur District.

... Petitioner

Vs.

1. The Assistant Provident Fund Commissioner (Compliance),
Employees Provident Fund Organization,
Sub-Regional Office,
P.B.No.588,
Shree Complex,
Madurai Road,
Trichy - 620 008.

2. The Recovery Officer.
Office of the Recovery Officer,
Employees Provident Fund Organization,
No.18, Madurai Road,
Shree Complex,
Trichy - 620 008.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records relating to the impugned proceedings passed by the first respondent in proceedings No.ENF/D2/TN 43268/SRO-TRY/2012 dated 24.04.2012 and the consequential proceedings of the second respondent in E.P.F. C.P.I. Reference No.Recy/D2/43268/TN/TR/SRO TRY/Recy 2012 dated 14.05.2012 and quash the same.

For Petitioner : Mr.B.Saravanan

For Respondents : Mr.I.Robert Chandrakumar

ORDER

This Writ Petition is filed for issuance of a Writ of Certiorari, to quash the impugned proceedings passed by the first respondent in proceedings No.ENF/D2/TN 43268/SRO-TRY/2012 dated 24.04.2012 and the consequential proceedings of the second respondent in E.P.F. C.P.I. Reference No.Recy/D2/43268/TN/TR/SRO TRY/Recy 2012, dated 14.05.2012.

2. The learned counsel for the petitioner submitted that the first respondent passed an order, vide proceedings in TN/43268/SRO-TRY/ENF/D2/2011 dated 16.12.2011, holding that an amount of



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Rs.60,211.60/- was due from the petitioner's School towards Provident Fund Contribution for the period between May '2010 and August '2011. The petitioner filed a Review Petition under Section 7B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. When the Review Petition was pending, the impugned order in proceedings No.ENF/D2/TN 43268/SRO-TRY/2012 dated 24.04.2012 was passed followed by the impugned notice of demand for recovery in Reference No No.Recy/D2/43268/TN/TR/SRO TRY/Recy 2012 dated 14.05.2012. Therefore, this petition.

3. In response, the learned counsel for the respondents submitted that the impugned order dated 14.05.2012 was passed only after the dismissal of the Review Petition on 27.04.2012. Therefore, nothing survives in this Writ Petition.

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



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5. It is seen from the records that the first respondent passed an order on 16.12.2011 under Section 7A of the Act directing the petitioner to pay a sum of Rs.60,211.60/- and the amount was due from May '2010 to August '2011 towards Provident Fund and Insurance Fund Contributions. The petitioner filed the petition for review under Section 7B of the Act on 19.01.2012. When the Review Petition was pending, the Regional Assistant Provident Fund Commissioner sent a notice to the Recovery Officer in Proceedings No.ENF/D2/TN 43268/SRO-TRY/2012 dated 24.04.2012 with the certificate of the recovery. On 14.05.2012, notice of demand to the defaulter prior to the attachment of movable and immovable, was issued in Reference No:Recy/D2/43268/TN/TR/SRO TRY/Recy 2012 dated 14.05.2012. This Writ Petition is filed challenging these notices.

6. The learned counsel for the respondents has produced a copy of the order passed in Review Petition on 27.04.2012. The said order shows that on the basis of the Review Petition filed by the petitioner, a notice was sent to the petitioner for appearance on 20.03.2012 at 11.30 a.m., with



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relevant records in order to consider the admissibility of 7B petition. On 20.03.2012, Shri.S.Mohammed Rasheed Khan, Correspondent of the School attended the enquiry. However, he neither submitted any written statement nor produced any new and important matter in support of his claim for reviewing the order. Therefore, the Review Petition was rejected on 27.04.2012. There is also a reference that the said Shri. S.Mohammed Rasheed Khan refused to sign in the order sheet. It is clear that even before issuing the notice dated 14.05.2012, the Review Petition was dismissed. Therefore, this Court finds that there is no merit in this Writ Petition and is liable to be dismissed.

7. In this view of the matter, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No
Speaking Order : Yes / No
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G.CHANDRASEKHARAN, J.

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