



W.P.(MD)No.24899 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.24899 of 2022

and

W.P(MD)Nos.19001 to 19003 of 2022

The Rajas International School,
Represented by its Chairman,
Joyraja,
Trivandrum Road,
Ozhuginaserry,
Nagercoil – 629 001.

... Petitioner

Vs

- 1.The CGIT cum Labour Court & Employees Provident
Fund Appellate Tribunal,
Chennai.
- 2.The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
Sub Regional Office,
No.66, Water Tank Road,
Nagercoil – 629 001.
- 3.Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Sub Regional Office,
No.66, Water Tank Road,
Nagercoil – 629 001.



W.P.(MD)No.24899 of 2022

4. The Manager,
Axis bank, Opposite to Duthie School,
Nagercoil – 629 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records comprised in EPFA 65/2018-ATA No. 481(13)/2015 dated 20.09.2022 on the file of the first respondent and the consequential communication of the third respondent in No.TN/NGL/75382/Rccy/8F/2022 dated 20.10.2022 and quash the same as arbitrary, illegal and contrary to principles of natural justice and consequentially direct the first respondent to permit the petitioner to comply with the condition of pre-deposit of 35 percentage of the amount specified in the order dated 16.03.2015 of the third respondent and restore EPFA 65/2018-ATA No. 481(13)/2015 to the file of the first respondent.

For Petitioner : Mr.Raguvaran Gopalan
for K.Prabhakar

For Respondents : Mr.Mohammed Athiff
Standing Counsel for R.1 to R.3

Notice Dispensed With for R.4

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Standing Counsel appearing for the respondents 1 to 3.

2. Considering the nature of relief to be granted, issuance of notice to the fourth respondent is dispensed with.



W.P.(MD)No.24899 of 2022

3. The writ petitioner is an assessee falling within the purview of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. It suffered an order under Section 7(A) of the Act on 16.03.2015. Questioning the same, the petitioner filed ATA No.481(13)/2015, on the file of the first respondent. The Tribunal passed a conditional order on 09.01.2020. The petitioner was called upon to pay 35% of the liability. Since the said condition was not complied with by the impugned order dated 20.09.2022, the appeal itself suffered dismissal. Challenging the same, the present writ petition has been filed.

4. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to permit the petitioner to comply with the condition and also restore the appeal.

5. Per contra, the learned Standing Counsel submitted that the impugned order has been correctly passed and it does not warrant any interference.

6. I carefully considered the rival contentions and went through the materials on record. The stand of the petitioner is that the counsel who represented them before the Tribunal did not inform them about the condition passed by the Tribunal. It is not possible for this Court to verify the correctness



W.P.(MD)No.24899 of 2022

of the said statement. I take notice of the fact that the counsel whose name appears on record for the writ petitioner who practiced before this Court died during the early phase of the pandemic.

7. Granting the benefit of doubt to the petitioner, I permit the petitioner to comply with the condition imposed by the Tribunal within a period of two weeks from the date of receipt of a copy of this order. On such remittance, ATA No. 481(13)/2015 will stand restored. The impugned order is set aside on such terms. Since the present developments are a direct outcome of the conduct attributed to the writ petitioner, the writ petitioner is directed to pay a sum of Rs.7,500/- (Rupees Seven Thousand Five Hundred only) as cost to the third respondent.

8. This writ petition is allowed accordingly. Consequently, connected miscellaneous petitions are closed. No costs.

02.11.2022

Index : Yes / No
Internet : Yes/ No
mga

Note: Issue Order Copy on 03.11.2022.



W.P.(MD)No.24899 of 2022

To

1. The CGIT cum Labour Court & Employees Provident Fund Appellate Tribunal,
Chennai.
2. The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
Sub Regional Office,
No.66, Water Tank Road,
Nagercoil – 629 001.
3. Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Sub Regional Office,
No.66, Water Tank Road,
Nagercoil – 629 001.
4. The Manager,
Axis bank, Opposite to Duthie School,
Nagercoil – 629 001.



WEB COPY



W.P.(MD)No.24899 of 2022

G.R.SWAMINATHAN, J.

mga

W.P.(MD)No.24899 of 2022

02.11.2022