



W.P.(MD)No.28715 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.28715 of 2022

and

W.M.P.(MD)Nos. 22708, 22709 & 22710 of 2022

G.Prakash Kumar

... Petitioner

Vs.

1. The Employees Provident Fund Organization,
Represented by its' Assistant Provident Fund Commissioner,
Sub-Regional Office,
65A, Water Tank Road, Nagercoil,
Kanyakumari District – 629 001.
2. M/s.J.C.Automobiles Private Limited,
Represented by its' Managing Director,
Mr.Iyyvin Prabhu Iyyathurai,
561/11 Noshthin Rekash,
NH 47, TVM Main Road,
Thottiyodu, Villukuri Post,
Kanyakumari District.

... Respondent



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, call for the records on the file of the first respondent in Ref.No.MD/NKL/1451756/Recy/EPF/CP-25/2022, dated 14.10.2022, and quash the same and consequently permit the petitioner to pay the balance amount of dues based on the impugned proceedings in 18 monthly installments.

For Petitioner : Mr.R.L.Dhilipan Pandian

For Respondents : Mr.J.S.Murali – for R1

ORDER

This writ petition has been filed to quash the impugned order of the first respondent in Ref.No.MD/NKL/1451756/Recy/EPF/CP-25/2022, dated 14.10.2022 and consequently permit the petitioner to pay the balance amount of dues based on the impugned proceedings in 18 monthly installments.



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2. The learned counsel for the petitioner submitted that the petitioner is a Managing Director of M/s.Pon Bharath Automobiles Private Limited. The said Company was a franchise of M/s.Ford India Limited and doing the business of distribution, sale and service of the Cars manufactured by the Ford India Limited and the company met with loss due to the stopping of production and the proposed closure of M/s.Ford India Limited and also due to the devastation caused by Okai storm, the Company was unable to discharge the Bank loans and as well as they are not able to pay the Employees Provident Fund Contribution to the first respondent and thereby, the first respondent passed the order under Section 7A of the Employees Provident Funds and Miscellaneous Provisions Act, 1952, on 21.08.2019, determined the contribution payable for the period from 4/2015 to 12/2018 at Rs.20,13,515/- after deducting the contribution of Rs.2,81,326/- remitted by the company, the balance contribution of Rs.17,32,189/- was demanded. Challenging the same, the present writ petition is filed.



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3. The learned counsel for the petitioner submitted that though initially Rs.20,13,515/- was imposed, subsequently, the petitioner paid a sum of Rs.2,81,316/- and as per notice, dated 07.12.2022, now the balance amount is Rs.17,92,194/- and the petitioner agreed to pay the above said amount by instalment as fixed by this Court.

4. The learned counsel appearing for the first respondent submitted that the first respondent has no serious objection, if the petitioner pays the amount in instalments as prescribed by this Court.

5. Considering the facts and circumstances of the case and the petitioner himself has come forward to pay the amount by way of instalments, this Court inclined to dispose the matter with the following terms :

(i) The petitioner is directed to pay a sum of Rs.2,92,194/- on or before 15.01.2023 and thereafter, the petitioner is directed to pay the balance amount of Rs.15,00,000/- in 10 equal instalments



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(i.e., Rs.1,50,000/- each instalment) on or before 15th day of every month;

(ii) The petitioner is also directed to contribute the Employees Provident Fund regularly apart from this payment.

(iii) If the petitioner failed to pay the above said amount, liberty is granted to the first respondent to initiate proceedings in the manner known to law.

6. With the above terms, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

22.12.2022

Index : Yes / No

Speaking Order : Yes / No

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M.DHANDAPANI,J.

RM

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