



W.A.No.1879 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2023

C O R A M

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A.No.1879 of 2011

Tamil Nadu Electricity Board,
Mettur Workshop Circle,
Mettur Dam-636 401
Rep. by its Superintending Engineer

... Petitioner/Appellant

-VS-

1. The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Sub Regional Office, Sri Jayalakshmi Plaza,
Anna Salai, Swarnapuri, Salem-4.

2. The Enforcement Officer,
Employees Provident Fund Organisation,
Sub Regional Office, Sri Jayalakshmi Plaza,
Anna Salai, Swarnapuri, Salem-4.

... Respondents/Respondents

Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent against
the order passed by this Court in W.P.No.33854 of 2007 dated 23.06.2011

For Petitioner : Mr.Anand Gopalan
For M/s.T.S.Gopalan
For Respondents : Mrs.R.Meenkshi



W.A.No.1879 of 2011

J U D G M E N T

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(Judgment of the Court was made by **S.VAIDYANATHAN,J.**)

This Writ Appeal has been filed, challenging the order passed by a

Single Judge dated 23.06.2011 in W.P.No.33854 of 2007, in and by which,

while dismissing Writ Petitions, the following orders were passed:

"6.However, when the matters came up today, it is brought to the notice of this Court by Mr.M.Muthupandian, learned counsel for the third respondent Trade Union in WP.No.33007/07 that the subject matter of the writ petitions has already been answered by the Division Bench of this Court in the common judgement dated 13.7.2007 in W.A.Nos.887 and 888 of 2007 (Tamil Nadu Electricity Board rep. by its Secretary, 800 Anna Salai, Chennai-2 v. the Regional Provident Fund Commissioner (RPFC), Chennai & Pondicherry, 37 Royapettah High Road, Chennai-14 and the Central Organisation of Tamil Nadu Electricity Employees (CITU) rep. by its President, 13 Mosque Street, Chepauk, Chennai. In that case, the Division Bench held that the exemption period under Section 16(1)(c) will not apply and there is no exemption specifically applied to the appellant Board in terms of Section 16(1)(c) of the Act. In that view of the matters, the appeals were dismissed and the order passed by this Court dated 21.3.2007 was upheld.

7. Though Mr.V.Karthik, representing M/s.T.S.Gopalan & Co, Counsel for the petitioner states that the petitioner Board has moved the Supreme Court in S.L.P.(Civil) Nos.20177 and 20178 of 2007 against the said judgement and the Supreme Court has issued notice in the Special Leave Petitions, it is unnecessary to retain the writ petitions, on the file of this Court, as the issue as to whether exemption period covered under Section 16(1)(c) will apply to the Board, will be finally determined by the Supreme Court.

8.Therefore, both the writ petitions stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed."



W.A.No.1879 of 2011

2. When the matter is taken up for hearing, it is represented by

Mrs.R.Meenkshi, learned counsel appearing for the respondents that the order passed under Section 7-A of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (in short "EPF Act, 1952") has already attained finality and that the Writ Petitioner/Appellant herein, without filing an appeal before the Tribunal as adumbrated under the EPF Act, 1952, straightaway approached this Court.

3. Learned counsel for the Appellant / TNEB (Electricity Board), by filing an affidavit dated 23.08.2023 before this Court, has submitted that in respect of three Distribution Circles, namely, Salem EDC, Mettur EDC and Dharmapuri EDC, the quantum of amount has been considerably reduced and against the orders passed under Section 7-A of the EPF Act, 1952, no appeal was preferred in view of the fact that the Appellant herein had filed SLPs No.20177 and 20178 of 2007, pertaining to application filed under Section 16(2) of the EPF Act, 1952. It is also represented that after the orders in the SLP, a Review under Section 7-B of the EPF Act, 1952 was filed. Though a plea of delay in filing Section 7-B application was raised by



W.A.No.1879 of 2011

the EPFO, the Court directed the Authority to verify the records, as the Electricity Board contended that the Union has produced records wherein names have been repeated, which made them to pay to the EPFO through their nose. On review, a determination was arrived at, wherein more than 75% of the amount has been reduced vide order passed under Section 7-B of the EPF Act, 1952. The relevant Paragraph No.6 of the affidavit of the Electricity Board is extracted below:

"6. I state that following the above, the 7B applications were considered and the quantum of demand was considerably reduced. I am filing details of the proceedings pertaining to 3 Electricity Distribution Circles (Salem, Mettur, Dharmapuri) in the jurisdiction of the 1st Respondent, wherein similar exercise has been carried out where also quantum of amount has been reduced. The details of the same are given below:

Distribution Circles	Section 7A Order	Section 7B Review Order	Reduced Amount
Salem EDC	Rs.4,75,03,496.65	Rs.1,02,50,366/-	Rs.3,72,53,130.65
Mettur EDC	Rs.7,77,55,962.30	Rs.1,21,50,952/-	Rs.6,56,05,010.30
Dharmapuri EDC	Rs.8,29,02,612.15	Rs.1,42,14,857/-	Rs.6,86,87,755.15

4. Learned counsel for the Electricity Board has further submitted that even in the 7-A proceedings, the Authority had found out that there were overlapping names. Since a decision has already been taken by the



W.A.No.1879 of 2011

Apex Court with regard to Section 16(2) and the Act is applicable, in order to find out whether there is any repetition made by employees in respect of claim made by them, the matter may be remanded to the concerned Authority and the Electricity Board is ready to produce necessary records to establish that the claim has been made by the employees more than once.

5. Mrs.R.Meenkshi, learned counsel for the respondents has contended that EPFO will scrutinize the entire documents and in case it is found that there is no repetition, the Electricity Board is bound to remit the amount as determined by the Authority.

6. Normally, this Court would not have entertained the Writ Appeal on the ground that the Writ Petitioner / Appellant herein has got alternative remedy. Taking note of the fact that the Writ Petition is of the year 2007 and the Writ Appeal has been preferred in the year 2011, instead of directing the Appellant herein to avail alternative remedy under Section 7-I of the EPF Act, 1952, this Writ Appeal is allowed and the matter is remitted back to the Authority concerned with a direction to the Appellant to file



W.A.No.1879 of 2011

Review within 15 days from the date of receipt of a copy of this judgment.

The Authority concerned of EPFO, after affording an opportunity of hearing to the Electricity Board, shall pass appropriate orders thereon within a period of three months from the date of commencement of the review proceedings.

7. It is made clear that in case there is any repetition of names, those names can be deleted and the reduced amount by means of an order determined by the EPFO shall be paid by the Electricity Board. If there is no reprise of names, the Appellant herein shall remit the amount as determined by the Authority (EPFO). No costs. Consequently, connected Miscellaneous Petitions are closed.

(S.V.N.J.,) (K.R.S,J.,)
31.08.2023

Speaking order/Non-speaking order

Index: Yes / No

Internet: Yes / No

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W.A.No.1879 of 2011

To:

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W.A.No.1879 of 2011

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