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W.P.No.21760 of 2013

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 29.08.2023**

**CORAM**

**THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU**

**W.P.No.21760 of 2013**

**and**

**M.P. No.1 of 2013**

R.Saranya

...Petitioner

-VS-

1. Employees' Provident Fund Organization,  
Ministry of Labour and Employment,  
Government of India,  
Rep.by its Regional Provident Fund Commissioner (Examination),  
Bhavishya Nidhi Bhavan,  
No.14, Vhikaji Cama Place,  
New Delhi – 110 066.
2. Institute of Banking Personnel Selection,  
IBPS House,  
90 Feet D.P.Road,  
Near Tagore Polytechnic,  
Opp.to Western Express Highway,  
Kandivali Post,  
Mumbai – 400 101.



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3. Management,  
VPRS Soft Tech Solution Private Limited,  
No.44, Seshachalam Street,  
Saidapet,  
Opp. to Geetha Matriculation School,  
Chennai – 600 015.

... Respondents

**Prayer:-** Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Declaration, declaring the Data Entry Skill Test for the post of Social Security Assistant conducted in the premises of the Third Respondent, conducted through the Second Respondent by the First Respondent on 31.07.2013 in respect of the Petitioner as illegal and consequently direct the Respondents to conduct re-test for Data Entry Skill Test for the Petitioner for the post of Social Security Assistant by providing a system without any fault within the time frame stipulated by this Court and consider the appointment of the Petitioner to the post of Social Security Assistant by taking into account of the marks secured in the written test and the marks secured in the re-test in the Skill Test.

For Petitioner : Ms.S.Kavya  
for Mr.Balan Haridas

For Respondents : Mr.V.Vijay Shankar (for R1)  
R2 - Not ready in notice  
No appearance (for R3)



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## ORDER

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Heard Ms.S.Kavya, Learned Counsel appearing for the Petitioner and Mr.V.Vijay Shankar, Learned Counsel appearing for the First Respondent and perused the materials placed on record.

2. This Writ Petition has been filed for declaring the Data Entry Skill Test for the post of Social Security Assistant conducted in the premises of the Third Respondent, conducted through the Second Respondent by the First Respondent on 31.07.2013 in respect of the Petitioner as illegal and consequently direct the Respondents to conduct re-test for Data Entry Skill Test, which relates to 'recruitment' in the services of the First Respondent viz., Employees' Provident Fund Organization.

3. It has been brought to notice by Learned Counsel appearing for the Respondent that is the First Respondent is an authority notified within the purview of the Central Administrative Tribunal under Section 14 (2) of the Administrative Tribunals Act, 1985. It has been ruled by the Full Bench of this Court in *Government of Tamil Nadu Vs. P.Hepzi Vimalabai* [ (1995) 1



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MLJ 1] that use of the words 'recruitment and matters concerning recruitment' in Sections 14, 15 and 28 of the Administrative Tribunals Act, 1985, and in Article 323-A of the Constitution of India, 1950, would necessarily mean that the Administrative Tribunals established under the Administrative Tribunals Act, 1985, shall have exclusive jurisdiction to deal with all matters specified therein and the High Court shall not have jurisdiction to decide questions relating to recruitment and matters concerning recruitment to Writ Petitions filed under Article 226 of the Constitution of India.

4. The Constitution Bench of the Hon'ble Supreme Court of India in ***L.Chandra Kumar Vs. Union Of India*** [(1997) 3 SCC 261] has laid down the law relating to entertaining the Writ Petition in respect of the matters which fall within the ambit of the Administrative Tribunals under the Administrative Tribunals Act, 1985, in the following words:-

*“99.....The Tribunals created under Article 323-A and Article 323-B of the Constitution are possessed of the competence to test the constitutional validity of statutory*



*provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the Tribunal concerned falls. The Tribunals will, nevertheless, continue to act like courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Court even in cases where they question the vires of statutory legislations (except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned...”*

In that backdrop, Learned Counsel appearing for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to file an application under Section 19 of the Administrative Tribunals Act, 1985, before the Central Administrative Tribunal for the relief claimed in this Writ Petition and he has also made an endorsement to that effect in the court record.



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5. It is made clear that for the purpose of reckoning limitation for availing the aforesaid remedy, the period from the date of filing of the Writ Petition, viz., 02.08.2013, till the date on which certified copy of this order is made ready by the Registry, shall be excluded.

In the result, the Writ Petition is dismissed as withdrawn granting such liberty. Consequently, the connected Miscellaneous Petition is closed.  
No Costs.

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***nst/vjt***

Index : Yes/No

Neutral Citation Case : Yes/No

**Note: Issue order copy by 04.10.2023.**



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**P.D. AUDIKESAVALU, J.**

*vjt/nst*

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