



W.A.(MD) No.435 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A.(MD) No.435 of 2023
and
C.M.P.(MD) No.4660 of 2023**

M/s.Senkottai Municipalities
Senkottai
Thirunelveli-627 809
through its Commissioner

... Appellant

-VS-

1.The Assistant provident Fund Commissioner
Employee's Provident Fund Organization
Regional Office, Bhavishya Nidhi Bhavan
N.G.O.B.Colony
Thirunelveli-627 007

2.The Recovery Officer
Employee's Provident Fund Organization
Regional Office, Bhavishya Nidhi Bhavan
N.G.O.B.Colony
Thirunelveli-627 007

... Respondents



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WEB COPY Writ Appeal filed under Clause 15 of Letters Patent to set aside the order (relating to recovery under Section 7I & 7O of the EPF Act) dated 16.12.2022, passed in W.P.(MD) No.28341 of 2022, on the file of this Court.

For Appellant : Mr.M.Pandiarajan

For Respondents : Mr.Mahaboob Athiff

J U D G M E N T

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

What was challenged before the Writ Court is the interim order passed by the Labour Court, Chennai, requiring the condition under Section 7-O of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for brevity, "the Act") to be complied with in order to entertain the appeal filed by the appellant – Municipality.

2. The employer / appellant – Municipality filed an appeal under Section 7-I of the Act against the order of the Authority under the Act.

3. Section 7-O of the enactment reads as follows:

"7-O. Deposit of amount due, on filing appeal.

- No appeal by the employer shall be entertained by a



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Tribunal unless he has deposited with it seventy-five per cent of the amount due from him as determined by an officer referred to in section 7-A:

Provided that the Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this section.”

4. However, taking note of the fact that the employer is the Municipality, the Labour Court had exercised its discretion available to it under the proviso and required the appellant – Municipality to deposit only 35% of the amount due. The terms of Section 7-O of the Act are mandatory. The jurisdiction under Article 226 of the Constitution of India is not meant for interfering with the discretionary orders passed by the Tribunals. Such interference would definitely affect the functioning of the Tribunals. When there is a mandate of the statute and the Labour Court has followed the mandate and exercised its discretion in a reasonable manner, we do not think that we can fault with the Writ Court for having dismissed the writ petition rejecting the challenge to such exercise. Accordingly, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.



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5. Learned counsel appearing for the appellant – Municipality requires a month's time to comply with the order passed by the Labour Court.

Accepting the said request, the appellant is granted one month time from the date of receipt of a copy of this Judgment to comply with the order passed by the Labour Court.

[R.S.M., J.]

[L.V.G., J.]

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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