

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5018 of 2023

and

W.M.P(MD)Nos.4683 & 4685 of 2023

R.Senthilkumar

... Petitioner

Vs

1.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Regional Office,
Bhavishya Nidhi Bhavan,
Chokkikulam,
Madurai – 625 002.

2.The Enforcement Officer,
Employees Provident Fund Organization,
Regional Office,
Bhavishya Nidhi Bhavan,
Chokkikulam,
Madurai – 625 002.

... 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 pertaining to the impugned order issued by the first respondent in Dairy No.

110/2020 (File No.MD/MDU/1620245/7A Inquiry/M-13/2021) dated 13.04.2022 and quash the same as illegal and consequently directing the respondents to conduct fresh enquiry after affording sufficient opportunity to the petitioner and determined the liability in accordance with law as contemplated under the PF Act.

For Petitioner : Mr.R.Aravindan

For Respondents : Mr.P.Karthick
Standing Counsel

ORDER

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

2.The petitioner challenges the impugned order passed by the first respondent under Section 7(A) of the Employees Provident Fund and Miscellaneous Provisions Act, 1952. Even at the outset, the learned counsel appearing for the petitioner on instructions submitted that even though he had questioned the order on merits, the petitioner will be satisfied if he is allowed to clear the liability in easy installments. A learned Judge of this Court in W.P(MD)No.27907 of 2022 (*M.Gopalakrishnan Vs The Assistant Provident Fund Commissioner / Recovery Officer*) dated 12.12.2022 granted such facility and such an approach has been adopted in scores of cases. Since on

account of the stand now taken by the petitioner the issue is given a quietus and further litigation is avoided, the petitioner can be permitted to pay the amount in question in installments. The nation was struck by pandemic for two years. The learned counsel appearing for the petitioner states that the petitioner's business is now only picking up. Even though the learned Standing Counsel strongly opposed the granting of such relief saying that it will be contrary to the statutory scheme, in the interest of justice, the petitioner can be permitted to clear the liability in question in 11 equal monthly installments. The first installment shall be paid on **13.04.2023**. If the petitioner commits two successive defaults, the benefit now conferred would stand recalled and the writ petition would stand automatically dismissed without further reference to this Court. The respondents shall not resort to attachment in view of the installment facility now granted.

3.This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

09.03.2023

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

G.R.SWAMINATHAN, J.

MGA

To

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