



W.P.(MD)No.11403 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED:01.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.11403 of 2020

and

W.M.P(MD)No.9980 of 2020

S.Muthuraj

... Petitioner

Vs.

1.The Commissioner,

**Employees' Provident Fund Organisation (EPF),
Bhavishya Nidhi Bhawan,
No.14, Bhikaiji Cama Place,
New Delhi – 66.**

2.The Assistant Commissioner(Pension),

**Employees' Provident Fund Organisation,
Regional Office, Ministry of Labour – Government of India,
Lady Doak College Road,
Chokkikulam,
Madurai – 2.**

3.The President,

**M.D.Spl.49, Koduvilarpatti Primary
Agriculturaal Co-operative Credit Society,
Koduvilarpatti,
Theni Taluk,
Theni District.**

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order issued by the second respondent in No.TN/MDU/RO/Pension/WP(MD)No.10294/2018/PPO.67947/2019, dated 30.07.2019 and set aside the same as illegal and consequently, direct the second respondent to pay the revised pension to the petitioner in the light of the judgment of the Hon'ble Supreme court in Civil Appeal Nos. 10013 – 10014 of 2016 (R.C.Gupta and others vs. R.P.F. Commissioner Employees' Provident Fund Organization and Others).

For Petitioner : Mr.R.Shankar Ganesh
For R-1 & R-2 : Mr.K.Murali Sankar
For R-3 : No Appearance

ORDER

This writ petition has been filed to quash the impugned order passed by the second respondent in No.TN/MDU/RO/Pension/WP(MD)No.10294/2018/PPO.67947/2019, dated 30.07.2019 and consequently, direct the second respondent to pay the higher pension to the petitioner in the light of the judgment of the Hon'ble Supreme Court in S.LP.Nos.10013 to 10014 of 2016, within the time stipulated by this Court.



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2. The case of the petitioner is that he is a pensioner and he made a representation for enhancement of pension based on the contribution paid by him on actual salary. However, the said representation was rejected on the ground that the claim of higher pension cannot be acceded since joint declaration for opting higher contribution has not been exercised by the petitioner as well as his employer. Challenging the same, the petitioner has filed this writ petition.

3. However, the learned counsel appearing for the petitioner would submit that the issue raised in this writ petition is covered by the decision of the Hon'ble Apex Court in S.L.P.Nos.10013 to 10014 of 2016 and the subsequent decision of the Hon'ble Apex Court in ***Civil Appeal Nos.008143 – 008144 of 2022(Arising out of S.L.P(C)Nos.8658-8659 of 2019 in The Employees Provident Fund Organization and another etc., v. Sunil Kumar B. & Ors. Etc.,)*** dated 04.11.2022, wherein the Hon'ble Apex Court issued certain directions. In view of the directions issued by the Hon'ble Apex Court, the petitioner may be granted liberty to make a representation, in line with the directions issued by the Hon'ble



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Apex Court, within a period of two weeks and the same may be directed to be considered, on merits and in accordance with law, within a specified period.

4. The learned counsel appearing for the respondents 1 and 2 , has no serious objection for such an order being passed by this Court.

5. Considering the limited request made by the learned counsel for the petitioner, this Court, without going into the merits of the matter, grants liberty to the petitioner to make a fresh representation to the respondents 1 and 2, within a period of two weeks from the date of receipt of a copy of this order and if any such representation is received, the respondents 1 and 2, are directed to consider the same and pass appropriate orders in terms of the decision made in S.L.P(C)Nos.8658-8659 of 2019, dated 04.11.2022, within a period of four weeks from the date of receipt of a copy of this order.



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6. With the above direction, this Writ Petition is disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

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NCC:Yes/No

Index:Yes/No

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M.DHANDAPANI,J.

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