



W.P.(MD)No13121 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:06.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.13121 of 2020

and

W.M.P(MD)Nos.11020 and 11021 of 2020

Dr.S.Suthakaran,
M/s.Shanmuka Nursing Home,
100, New Agrharam, Palani Road,
Dindigul, Tamilnadu.

... Petitioner

Vs.

The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Regional Office, No.1 Lady Doak College Road,
Chockikulam, Madurai, Tamil Nadu 625 002.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the respondent relating to MD/MDU/91856, quash the order, dated 11.03.2016.

For Petitioner : Mr.S.Seenivasagam

For Respondent : Mr.K.Muralisankar



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ORDER

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This writ petition has been filed to quash the order passed by the respondent in MD/MDU/91856, dated 11.03.2016.

2. The case of the petitioner is that he is running a Hospital in the name and style of M/s.Shanmuka Nursing Home, engaging five to seven employees and therefore, the petitioner's hospital will not come under the ambit of the Employees' Provident Funds And Miscellaneous Provisions Act, 1952(hereinafter referred to as 'the Act'). While so, an inspection was conducted by the Original Authority and the Authority visited the Hospital and reported that more than twenty persons were employed in the Medical Shop, Laboratory and Students Trainees deputed by the Nursing Training Institutes, without ascertaining that whether they were employed for wages. Subsequently, without following the procedure contemplated under the Act, on 11.03.2016, the Original Authority had mechanically passed an order under Section 7A of the Act, directing the petitioner to remit a sum of Rs.3,32,685/- as contribution for the period between October 2012 and December 2013 and the said order did not



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reach the petitioner's Hospital. When the notice of recovery was served, the petitioner requested to furnish a copy of the order, dated 11.03.2016. Thereafter, through a communication, dated 22.04.2017, the respondent sent a copy of the order through post and on receipt of the same, the petitioner filed a review application. However, no order was passed. Hence, the petitioner filed a writ petition before this Court in W.P.(MD)No.10886 of 2017, seeking to issue a direction to dispose of the review application filed by the petitioner and not to execute the order passed under Section 7A of the Act. This Court vide order, dated 20.08.2020, directed the petitioner to challenge the order, dated 11.03.2016, passed by the respondent under Section 7A of the Act. Hence, the petitioner has filed this writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that without going into the merits of the case, this Court, may grant liberty to the petitioner, to file an appeal before the Tribunal, on condition to deposit some amount and on receiving the deposit receipt, the Tribunal may be directed to pass appropriate orders.



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4. The learned standing counsel appearing for the respondent, has no serious objection for such an order being passed by this Court.

5. In view of the above, considering the limited request made by the learned counsel for the petitioner, this Court, without going into the merits of the matter, directs the petitioner to deposit 50% of the demand before the respondent, within a period of four weeks from the date of receipt of a copy of this order. Further, the petitioner is granted liberty to file an appeal before the Tribunal along with the deposit receipt. On such filing of appeal by the petitioner along with receipt, the Tribunal is directed to entertain the appeal and dispose of the same, within a period of six weeks thereafter.

6. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

06.01.2023

pm
NCC:Yes/No
Internet:Yes/No

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M.DHANDAPANI,J.

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