



W.P.(MD).No.16873 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.16873 of 2023

and

W.M.P(MD)No.14119 of 2023

M/s.Shivani Engineering College,
Represented by its Treasurer,
S.Prabhakaran,
Trichy-Dindigul NH Road,
Navalur Kuttappattu,
Trichy-620 009.

... Petitioner

Vs.

Assistant Provident Fund Commissioner,
Employees' Provident Fund Organization,
Regional Office, P.B.No.588, Sree Complex,
No.18, Madurai Road,
Trichy-620 008.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for records of order Ref. No.ENF-B5/CB/TRY/76812/RO-TRY/2021, dated 11.08.2021 passed by the respondent and quash the same and directing the respondent to accept the remaining outstanding determined amount of Rs.12,86,101/- (Rupees Twelve Lakhs Eighty Six Thousand One Hundred and One only) in 24 equal monthly installments.



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For Petitioner : Mr.P.Thangaraju

For Respondent : Mr.N.Dilip Kumar
Standing Counsel

ORDER

The present writ petition is for a Writ of Certiorarified Mandamus, calling for records of order Ref. No.ENF-B5/CB/TRY/76812/RO-TRY/2021, dated 11.08.2021 passed by the respondent and quash the same and directing the respondent to accept the remaining outstanding determined amount of Rs.12,86,101/- (Rupees Twelve Lakhs Eighty Six Thousand One Hundred and One only) in 24 equal monthly installments.

2. Heard the learned Counsel for the petitioner and the learned Standing Counsel for the respondent and carefully perused the materials available on record.

3. The petitioner is an Engineering College. The respondent initiated an enquiry under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 to access the non-payment of provident fund dues for the



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period between November, 2014 and February, 2018. The respondent passed the impuged order, dated 11.08.2021 for the determined amount of Rs.50,30,339/- as outstanding provident fund dues for the said period. Of which, the petitioner has already settled an amount of Rs.37,44,238/- and the outstanding balance is Rs.12,86,101/-. Because of the huge financial burden, the petitioner is unable to pay the entire amount and for the remaining amount of Rs.12,86,101/- the petitioner sought the respondent to permit him to pay the outstanding balance of the provident fund dues in 24 equal monthly installments. However, such a request was not heeded by the respondent Organisation. Hence, this writ petition came to be filed.

4. Per contra, the learned Standing Counsel for the respondent vehemently submitted that the petitioner was not amenable to the conditions whatever was mandated by the respondent for the purpose of permitting the petitioner to remit the outstanding balance in installments. To be more particular, the respondent vide communication, dated 11.08.2023 had intimated the petitioner to comply with the conditions. Failing which, the respondent cannot permit the petitioner to make payment of the outstanding dues in installments. Only because the petitioner did not agree to the aforesaid



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conditions, the respondent Organisation refused to accept the petitioner's proposal of making payment in installments and insisted for the petitioner to comply with the conditions for the purpose of availing payment in installments.

5. Therefore, this Court is of the considered view that the petitioner, who is already under financial constraints with much difficulty has come forward to settle the entire outstanding dues in 24 equal monthly installments.

6. In view of the above said discussions, this Court passes the following order:

(i) The respondent Organisation should permit the petitioner to make the payment in installments. Hence, this Court permits the petitioner to settle the entire outstanding balance of Rs.12,86,101/- in 24 equal monthly installments to be payable on 15th day of every month in English calendar (i.e.,) the period from 15.09.2023 to 15.10.2025.

(ii) The current contributions and the employers share to be paid regularly by 15th day of each month in addition to this installments.



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(iii) The contribution in respect of the outgoing / deceased member / retired employees shall be paid in one lump sum in the following month itself in addition to the amount of dues and monthly installments.

(iv) This Court makes it clear that the petitioner will not be exempted from the payments of statutory dues under Sections 14B and 7Q of the EPF and MP Act, 1952 for the particular period.

(v) In case of default of the petitioner to comply with any of the aforesaid condition, the respondent Organisation is at liberty to proceed as against the petitioner in accordance with law.

(vi) Each installments shall be paid along with interest under Section 7Q and 14B of the EPF and MP Act, 1952, along with the outstanding and current contributions from March 2018.

7. Accordingly, this writ petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

18.08.2023

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



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To
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L.VICTORIA GOWRI, J.

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