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W.P.(MD)No.20115 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.20115 of 2019
and
W.M.P.(MD)No.16652 of 2019

M/s.A.1265 Pannaikadu Primary
Agricultural Co-operative Bank,
Pannaikadu, Kodaikanal Taluk,
Dindigul District-624 101.

... Petitioner

vs.

1.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Sub-Regional Officer,
1, Lady Doak College Road,
Chokkikulam, Madurai-625 002.

2.Before the Employees Provident Fund
Appellate Tribunal, Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of



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W.P.(MD)No.20115 of 2019

India for issuance of Writ of Certiorari, to call for the records relating to the order of the Appellate Tribunal EPFA.398 / 2018 / A / TN-93 / 2017 (2015), dated 14.08.2019 and to quash the same.

For Petitioner : Mr.V.O.S.Kalaiselvam
For R1 : Mr.K.Muralishankar
R2 : Tribunal

ORDER

This writ petition is filed for writ of Certiorari, to quash the order of the Appellate Tribunal, dated 14.08.2019.

2. The petitioner is a Co-operative Bank. The 1st respondents had issued 8-F order, dated 20.08.2015. The petitioner was shocked to receive the same, since they did not receive any orders under Section 14-B. Thereafter the petitioner approached respondent to provide the copy of the order passed and the same was received on 18.12.2015, then the petitioner had filed the appeal belatedly challenging the 14-B order. But



WEB COPY



W.P.(MD)No.20115 of 2019

the same was rejected on the ground of limitation, aggrieved over the petitioner had filed this writ petition.

3. The contention of the petitioner is that since they were in Kodaikanal, which a hilly region, he did not receive the 14-B order in time. In fact, they were not aware of the 14-B order at all. Only after the receipt of the 8-F order, it came to the knowledge of the petitioner that the respondent had passed an order under 14-B. Then they approached the respondents and received the copy of the order.

4. The Tribunal has rejected the claim of the petitioner by stating that the petitioner did not submit an iota of evidence to substantiate the submission. It is seen that the case of the petitioner is that the original order passed under section 14-B was not received, only after 8F order was received, they came to know about the 14-B order. The Tribunal is directing the petitioner to prove that they did not receive the order passed



WEB COPY



W.P.(MD)No.20115 of 2019

under 14-B. It is difficult to prove the negative. On receipt of the order passed in 8F the petitioner had approached the respondent within reasonable time and had filed appeal. Therefore, this Court is of the considered opinion that the petitioner ought to be granted an opportunity. Hence, the impugned order is quashed. The 2nd respondent Tribunal is directed to number the petition and hear the case on merits.

5. On the above said terms, the writ petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

Index : Yes / No

15.06.2023

Internet : Yes

NCC : Yes / No

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WEB COPY



W.P.(MD)No.20115 of 2019

S.SRIMATHY, J

Tmg

W.P.(MD)No.20115 of 2019



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W.P.(MD)No.20115 of 2019

15.06.2023