



W.P.(MD)No.11355 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.11355 of 2018
and
W.M.P(MD)No.10335 of 2018

V.Murugan

... Petitioner

Vs.

1.The Presiding Officer,

Employees Provident Fund Appellate Tribunal,
Scope Minar, Core-II, 4th Floor,
Laxmi Nagar District Centre,
Laxmi Nagar,
New Delhi - 110 092.

2.The Assistant Provident Fund Commissioner,

Employees Provident Fund Organisation,
Regional Office,
Bhavishya Nidhi Bhavan,
Lady Doak College Road,
Chokkikulam,
Madurai-625 002.



W.P.(MD)No.11355 of 2018

WEB COPY

3.The Recovery Officer,

O/o.The Recovery Officer,

Employees Provident Fund Organisation,

Lady Doak College Road,

Chokkikulam,

Madurai-2.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records in pursuant to the impugned order passed by the second respondent in his proceedings file No.MD/MDU/97282/Enf C/Circle -24/24005/2017, dated 07.11.2017 and consequential order passed by the third respondent in his proceedings RRC No.MD MDU 9911/0097282/02/04/2018/502/11, dated 25.04.2018 and quash the same.

For Petitioner : Mr.M.Saravanakumar

For Respondents : Mr.John Xavier - for R2 & R3



W.P.(MD)No.11355 of 2018

ORDER

WEB COPY

This writ petition has been filed to quash the impugned order passed by the second respondent in his proceedings file No.MD/MDU/97282/Enf C/Circle -24/24005/2017, dated 07.11.2017 and consequential order passed by the third respondent in his proceedings RRC No.MD MDU 9911/0097282/02/04/2018/502/11, dated 25.04.2018.

2. The case of the petitioner is that the petitioner is a Partner of the Kurinchi Restaurant and the Motel is running in Srivilliputhur to Rajapalayam Highway, more particularly, near to Vanniyampatti Vilakku, Srivilliputhur in the month of November 2013. However, due to loss of business, the Motel was closed in the month of January 2014 itself. However, the second respondent passed an *ex-parte* impugned order vide proceedings, dated 07.11.2017 under Section 7 A(1)(b) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 for the period from 11/2013 to 1/2016 to remit the amount of Rs.1,55,870/-. Consequently, the third respondent issued the impugned attachment order



W.P.(MD)No.11355 of 2018

WEB COPY

vide proceedings, dated 25.04.2018. Challenging the same, the present writ petition is filed.

3. The learned counsel appearing for the second respondent has submitted that the petitioner, without exhausting the appeal remedy has straightaway approached this Court and therefore, this writ petition is not maintainable.

4. The learned counsel for the petitioner has submitted that in this writ petition, though the petitioner has sought for a larger relief, he now wants to approach the concerned appellate authority by way of appeal, to challenge the order impugned herein, in terms of 7(i) of the Employees' Provident Funds and Miscellaneous Provisions Act.

5. In view of the above submission, this writ petition is disposed of, permitting the petitioner to file an appeal before the Appellate Authority in terms of 7(i) of the Employees' Provident Funds and Miscellaneous Provisions Act, within a period of four weeks from the date of receipt of a



W.P.(MD)No.11355 of 2018

WEB COPY

copy of this order and if any such appeal is being filed, the Appellate Authority shall entertain the same without raising any objection with regard to limitation and pass orders on merits and in accordance with law within a period of twelve weeks thereafter, after affording an opportunity of hearing to the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

15.02.2023

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

RM



WEB COPY



W.P.(MD)No.11355 of 2018

M.DHANDAPANI, J.

RM

W.P.(MD)No.11355 of 2018

15.02.2023