



W.P.(MD)No.11634 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.11634 of 2015

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Chokkikulam,
Madurai – 2.

... Petitioner

Vs.

1. M/s. Kamarajarar Matric
Higher Secondary School,
Through its Correspondent,
Anuppankulam, Madurai-2.

2. The Presiding Officer,
Employees Provident Fund Appellate Tribunal,
New Delhi.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorari*, calling for the records pertaining to the impugned order of the 2nd respondent herein in his proceedings bearing A.T.A.No. 295(13)2013, dated 19.08.2014 and quash the same and confirm the order passed



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by the petitioner under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act in his proceeding No.TN/MDU/37879/Enf.B/ Circle 22/22001/2013 , dated 13.03.2013.

For Petitioner : M/s.A.John Xavier
K.Sabur Khan
For R-1 : Mr.S.M.Anantha Murugan,
R-2 : Tribunal

ORDER

This writ petition is filed by the Employees Provident Fund Authorities, against the order passed by the 1st respondent/ Employees Provident Fund Appellate Tribunal, dated 19.08.2014.

2. Heard the parties appearing for either side. Perused the material documents placed on record.

3. The contention of the Employees Provident Fund Authorities is that the 1st respondent school has engaged five persons, apart from the other regular teachers. According to the 1st respondent, the school offers other activities



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like Karata, Yoga, Drawing, Caram and Dance etc. and hence the said five persons are special teachers. The said teachers were also engaged by other school as well. They are not regular employee and they will not regularly visit the school. Moreover, for their service, they have received only honorarium as wages. They are visiting weekly once or as per schedule agreed by both the parties. Since they are not coming under the regular employee category, they cannot be included under Employees Provident Fund Scheme. But the Employees Provident Fund Authorities submitted that they should be designated as regular employees.

4. This Court is of the considered opinion that when the 1st respondent is submitting the said teachers are not having same work load like the other regular teachers, when the 1st respondent is submitting that the said teachers would visit once in a week, when the 1st respondent submitting that they are engaged by other schools for other days in a week, then the Employees Provident Fund Organization cannot demand the 1st respondent to engage them as regular employees and in turn to pay Employees Provident Fund.



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5. Therefore, this Court is of the considered opinion that the order passed by the Tribunal is sustainable. The Employees Provident Fund authorities have not raised any valid grounds. Accordingly, this Writ Petition stands dismissed. There shall be no order as to Costs.

Index : Yes / No
Internet : Yes
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26.06.2023



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To

1. The Correspondent,
Kamarajarar Matric
Higher Secondary School,
Anuppankulam,
Madurai-2.
2. The Presiding Officer,
Employees Provident Fund Appellate Tribunal,
New Delhi.



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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No.11634 of 2015**

26.06.2023