



W.P.(MD)No.29204 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:02.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.29204 of 2022
W.M.P(MD).No.23140 of 2022

The Central Electro Chemical Research Institute,
Rep.by its Director,
Karaikudi.

... Petitioner

Vs.

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

2.The Recovery Officer,
Employees' Provident Fund Organization,
Lady Doak College Road,
Chokkikulam,
Madurai-625 002.

3.M/s.Alagappapuram Labour Contract
Co-operative Society,
Rep.by its Secretary,
Karaikudi.

4.Registrar,
Central Government IT cum Labour Court



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and Employee Provident Funds Appellate Tribunal,
Shastri Bhavan, Nungambakkam,
Chennai.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 4th respondent in F.No.EPFA.17 of 2019 dated 26.09.2022, quash the same and direct the 4th respondent to restore the same on file and proceed in accordance with law within a time frame.

For Petitioner : Mr.K.P.S.Palanivelrajan

For Respondents : Mr.K.Murali Shankar

ORDER

This Writ Petition has been filed to call for the records pertaining to the order of the 4th respondent passed in F.No.EPFA.17 of 2019 dated 26.09.2022, quash the same and direct the 4th respondent to restore the same on file and proceed in accordance with law within a time frame.

2. The case of the petitioner is that the petitioner is the Central Research Institute which had engaged Contract Labours for



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sweeping and gardening for various periods till 1999. As per the agreement, the third respondent had been directed to pay the EPF Contributions of the labourers and produce the counterfoil, based on which, the petitioner would reimburse to the third respondent. Initially, on 12.08.2009, the 2nd respondent found that the petitioner was liable to pay a sum of Rs.18,00,000/- towards the contribution of the third respondent. The same was challenged by way of writ petitions by the petitioner before this Court in W.P(MD).No.8498 and 8499 of 2010 and this Court has dismissed the writ petitions on 14.10.2011, as against which, the petitioner has preferred appeals in W.A(MD).Nos.1166 and 1167 of 2011. This Court vide its order dated 05.12.2018 permitted the petitioner to withdraw the writ appeal and granted liberty to the petitioner herein to file a statutory appeal before the appropriate authority within a period of four weeks from the date of receipt of a copy of this judgment and directed the Authority to entertain the appeal, notwithstanding the delay and dispose of the same at an early date. Subsequently, the appeal was filed by the petitioner, however, the same was dismissed for default on the ground that the petitioner has not



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appeared before the Tribunal. Thereafter, the petitioner has filed a petition to restore the appeal preferred by them. However, the same was rejected on the ground that there was a delay in making the application. Hence, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that pursuant to the judgment passed by the Hon'ble Division Bench of this Court, the appeal has been filed by the petitioner. At that time, the petitioner's counsel suffered with head injury and he was admitted in the hospital. Therefore, he was unable to appear before the Tribunal. However, without considering the facts, the Tribunal dismissed the petitioner's appeal for default. Subsequently, the petitioner has filed a petition to condone the delay of 10 days in filing the petition to restore the appeal preferred by them. However, without providing sufficient opportunity to the petitioner, the Tribunal has rejected the petition filed by the petitioner. Hence, this Court may set aside the impugned order passed by the 4th respondent and remand the matter back to the 4th respondent for fresh consideration.



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4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents 1 and 2.

5. Since the appeal was rejected solely on the ground that the petitioner's counsel has not appeared before the Tribunal and the petition for condonation of delay of 10 days in filing the same to restore the appeal was rejected on the ground that there is no provision available for condoning the delay to restore the appeal, without providing opportunity to the petitioner, this Court is inclined to set aside the impugned order passed by the 4th respondent in F.No.E.P.F.A.17 of 2019 dated 26.09.2022 on the ground that the petitioner is entitled for fair opportunity and the matter is remanded back to the 4th respondent for fresh consideration. The 4th respondent is directed to hear the petitioner and pass appropriate orders on merits and in accordance with law within a period of 12 weeks from the date of receipt of a copy of this order. The petitioner's counsel is directed to appear before the Tribunal without any default.



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6. Accordingly, this Writ Petition is allowed. No costs.

Connected miscellaneous petition is closed.

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NCC:Yes/No

Index:Yes/No

Internet:Yes/No

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