



W.P.No.7505 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2024

CORAM

THE HONOURABLE MRS. JUSTICE N.MALA

W.P.No.7505 of 2024 and
W.M.P.No.8406 of 2024

The Deputy Director of Health Services
M/s. Erode District Health Society,
Opp. To Elementary School,
Thindal, Erode – 638 012.

...Petitioner

Vs.

1. The Commissioner,
EPF Organization,
No.37, Royapettah High Road,
Chennai – 600 014.

2. The Assistant Provident Fund Commissioner
EPF Organization (Comp – I)
Regional Office, Salem, EPFO,
Steel Plant Road, Salem – 636 302.

3. The Assistant Provident Fund Commissioner,
EPFO, Regional Office,
Steel Plant Road, Salem – 636 302.

4. The Recovery Officer / Regional PF Commissioner – II
EPF Organization
Cauvery Road, Karungalpalayam
Erode District – 638 003.

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for records of the show cause notices bearing No.CB/SLM/DO-ED/RECOVERY/1561127/SUMMON/2024/1240 dated 23.01.2024 and No.CB/SLM/DO-ED/RECOVERY/1561127/SUMMON/2024/1288 dated 19.02.2024 issued by the 4th Respondent.

For Petitioner : Mr.J.Ravindran
Additional Advocate General.
assisted by Azizulla Khan,
Government Advocate.

For R1 : Mr. R.Vishnu
Standing Counsel

For R2 to R4 : Mr. P.K.Paneerselvam
Standing Counsel

ORDER

The writ petition is filed challenging the impugned show case notices dated 23.01.2024 and 19.02.2024 issued by the fourth respondent. The impugned show cause notices were issued stating why warrant of arrest should not be issued against the petitioner for non payment of Rs.39,28,027/- towards interest under Section 7Q of the Act. The learned Additional Advocate General appearing for the petitioner submits that the EPF Officer, EPF Organization Regional Office, Salem has passed an order on 11.02.2020 directing the petitioner society to pay the contribution of Rs.1,36,08,759/- (Rupees One



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crore thirty six lakhs eight thousand seven hundred and fifty nine only) under Section 7A of the Act.

2. The learned Additional Advocate General submits that the contribution to the tune of Rs.1,36,08,759/- demanded under section 7A of the Act vide order dated 11.02.2020 was remitted by the petitioner. Thereafter a show cause notice was issued on 12.10.2021 claiming damages under Section 14B of the Act. Subsequently on 11.04.2022, order was passed under section 7Q of the EPF Act, levying interest at 12% for the period 10/2016 to 07/2020 and the petitioner was directed to remit the sum of Rs.39,28,027/- (Rupees thirty nine lakhs twenty eight thousand and twenty seven only). The order dated 12.10.2021 was challenged in E.P.F.A.No.121 of 2022. The appeal was admitted and interim stay was granted vide order dated 07.02.2023 on conditional deposit of Rs.15,00,000/-. In pursuance of the said order, the sum of Rs.15,00,000/- was remitted to the credit of “The Regional PF Commissioner, Salem” and the same was received and acknowledged on 26.07.2023. While so, the order of attachment attaching the bank account under Section 8F of the Act was passed against the petitioner for recovery of statutory dues for a sum of Rs.39,28,027/- towards interest under 7Q of the Act. Thereafter a notice of demand dated 09.05.2023 was issued calling upon



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the petitioner to pay the total sum of Rs.1,19,74,013/- including Rs.80,45,986/- towards 14B damages and Rs.39,28,027/- towards 7Q Interest for the period 04/2017 to 09/2021. Thereafter the impugned show cause notices were issued to the petitioner as to why the petitioner should not be committed to Civil prison for default of payment of Rs.39,28,027/- towards 7Q Interest.

3. The learned Additional Advocate General submits that the petitioner has filed the application for exemption from payment of damages and interest to the Central Board of Trustees on 19.02.2024 and therefore prays that appropriate directions may be issued to the Central Board of Trustees to consider the aforesaid application.

4. When the matter came up for hearing on 18.03.2024, the learned Additional Advocate General was directed to remit Rs.10,00,000/- for considering his prayer. The learned Additional Advocate General sought time to get instructions on remitting Rs.10,00,000/- towards 7Q interest demanded under the impugned orders. Today, the learned Additional Advocate General on instructions submits that the petitioner is ready to deposit the aforesaid amount and reiterates his prayer that the exemption application may be directed to be considered.



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5. The learned counsel for the respondent on the other hand submits that the Central Board of Trustees, Employee Provident Fund Organization is a necessary party, as the representation of the petitioner is addressed to the said Board. The learned counsel further submits that the omnibus request for exemption arising out of appeals from different regions is untenable and therefore prayed that the petitioner may be directed to make specific request with reference to the specific proceeding pending before the respondent in this Writ petition.

6. Heard both counsels and perused the materials available on record.

7. The Petitioner preferred an appeal in EPFA 121/22 against the 14B order dated 12.10.2021 and remitted the conditional deposit out of Rs.15 lakhs in compliance of the order dated 07.02.2023 passed in the stay petition in the said appeal. It is seen that a composite order dated 09.05.2023 was passed demanding a sum of Rs.80,45,986/- towards 14B damages and Rs.39,28,027/- towards 7Q interest. Thereafter the impugned show cause notices were issued.

8. It is submitted by the learned Additional Advocate General that if the 14B damages of Rs.80,45,986/- is waived by Central Board of Trustees, then the conditional deposit of Rs.15,00,000/- already made by the petitioner could



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be adjusted towards 7Q interest calculated at Rs.39,28,027/-. The learned Advocate General further submits that if the sum of Rs.10,00,000/- as ordered by this Court is also credited, then the balance would be Rs.14,280,27/- only and therefore the learned Additional Advocate General seeks suitable directions. As the petitioner has filed the application for exemption of damages and interest before the Central Board of Trustees on 19.02.2024, I am of the view that the interest of justice will be served if the following directions are issued.

(i) Direction is issued to the petitioner to remit the sum of Rs.10,00,000/- (Rupees ten lakhs only) towards 7Q interest of Rs.39,28,027/- within a period of one week from the date of receipt of a copy of this order. The petitioner shall thereafter make a request/application for waiver of 14B damages for the period from 04.07.2017 to 09.12.2021 in respect of which the appeal is pending before the C.G.I.T in E.P.F.A.No. 121 of 2023.

(ii) On receipt of the said amount of Rs.10,00,000/-, the 4th respondent shall forward the request/application to the Central board of Trustees in New Delhi.

(iii) The Central Board of Trustees on receipt of the request/application shall pass orders on merits and in accordance with law within a period of eight (8) weeks.



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(iv) No coercive steps shall be taken by the respondents till the disposal of the request/application for waiver.

9. The learned Additional Advocate General submits that an application dated 19.02.2024 is pending with the Central Board of Trustees for omnibus exemption from payment of damages and interest in respect of the various appeals pending before the various authorities in the state of Tamil Nadu. The learned Advocate General therefore prays that a direction may be issued to the Central Board of Trustees to dispose of the application within a time frame to be fixed by this Court.

10. As rightly contended by the learned counsel for the respondent, no direction can be issued against the Central Board of Trustees without their impleadment. Hence this Court suo moto impleads the Central Board of Trustees as the 5th respondent in the writ petition. In the light of the fact that the application dated 19.02.2024 is kept pending without any decision thereon, a direction is issued to the 5th respondent, the Central Board of Trustees to consider the application dated 19.02.2024 on merits and in accordance with law within a period of 12 weeks from the date of receipt of a copy of this order. It is made clear that the petitioner is permitted to file fresh copy of the



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application dated 19.02.2024 along with supporting documents for claiming exemption. The writ petition is disposed of in terms of the above direction.

There shall be no order as to costs. Consequently connected miscellaneous petition is closed.

20.03.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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N.MALA,J.

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