



W.P.No.18878 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.18878 of 2020
and
W.M.P.No.23463 of 2020

R.Varadaraj
Petitioner

Vs.

...

1. The Additional Central E.P.F. Commissioner,
Ministry of Labor & Employment Government of India,
Zonal office (Chennai & Puducherry),
No.37, Royapettah High Road,
Chennai – 600 014.
2. The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Regional Office, Ambattur,
No.R-40A, T.N.H.B, Office Complex,
Mugappair East, Chennai – 600 037.
3. The Recovery Officer,
Sub Regional Office
Employees Provident Fund Organization,
Regional Office, Ambattur,
No.R-40A, T.N.H.B, Office Complex,
Mugappair East, Chennai – 600 037.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records of



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the impugned orders passed by the second respondent made in No.TN/RO-AMB/1323435/CC-II/AREA-3/2019 dated 09.03.2020 & RN/RO-AMB/1323435/CC-II/AREA-3/2020 dated 19.05.2020 and also consequentially the recovery order passed by the second respondent in No.YNAMB17309/1323435/08/05/2020/203/35 dated 08.05.2020 (the above recovery order received on 19.10.2020) and quash the same and further direct the second respondent to take up the review petition dated 17.03.2020 filed by the petitioner.

For petitioner : MrA.Periyamuthu
For respondent : Ms.Sunitha Kumari
Standing counsel

ORDER

This writ petition has been filed to quash the impugned orders 09.03.2020 & dated 19.05.2020 and direct the second respondent to take up the review petition dated 17.03.2020 filed by the petitioner.

2. The petitioner's company was not registered as per the provision of EPF Act till 2014 as the company employed only 4 to 5 employees. Subsequently during the year 2014 as the strength of the employees increased, the petitioner company was registered under the EPF scheme and paid PF for more than 20 employees who were drawing



Rs.15,000/- and less as monthly salary. But during the year 2015, due to certain reasons the company's strength was again decreased to 4 to 5 employees. Therefore, the petitioner company did not pay PF for 12 employees who were drawing more than Rs.15,000/- as salary since the EPF Act mandates payment of EPF only for the staff who draws monthly salary of Rs.15,000/- and less.

3. While so, the second respondent passed an order under Section 7 (a) of the EPF Act stating that the petitioner's company had to pay Rs.3,57,883/- as EPF dues for the ex employees who were drawing more than Rs.20,000/- salary also. The petitioner submitted all the documents and filed an appeal under Section 7 (b) of the Act but the second respondent rejected the same.

4. Aggrieved by the orders of the second respondent, the petitioner company filed a review petition and the said petition was rejected on the ground that the petition was not filed in a proper form and that it was filed beyond the period of limitation. The petitioner's company submitted a representation to the first respondent to direct the second respondent to condone the delay in filing the review petition and also



consider the same. Subsequently, the second respondent passed impugned recovery order dated 08.05.2020 while the representation submitted to the first respondent is pending. Aggrieved by the same, this writ petition.

5. It is submitted by the learned counsel for the petitioner that the rejection of the review petition is erroneous and if the petition is not in a proper form the authorities should have returned the review application for filing in a proper format.

6. The learned counsel for the respondent has submitted that the limitation for filing of the review petition has already been lapsed and the decision taken by the second respondent is proper and maintainable.

7. During the course of hearing the learned counsel for the petitioner has submitted that if the petitioner is given liberty to file an appeal before the appellate authorities he will approach the appellate authorities and make an attempt. However, the learned counsel for the respondents has submitted that petitioner cannot be permitted to file an appeal as the limitation of 120 days which was already been expired. As per the records, the first rejection orders were passed on 09.03.2020 and



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the second rejection orders were passed on 19.05.2020. If the date of first rejection order is taken into consideration the limitation period has already been expired, however, if the date of the second rejection order is taken into consideration then perhaps the petitioner may have limitation as on the date of filing of this petition.

8. In view of the above discussion, this writ petition is disposed of while granting liberty to the petitioner to approach the appellate authorities to prefer an appeal within four weeks from the date of receipt of a copy of this order subject to limitation and other technical aspects. The appellate authorities under EPF Act is directed to exclude the period from the date of order to the date of receipt of a copy of the order while computing the limitation. Connected W.M.P.is closed. No costs.

11.06.2024

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Index	:	Yes/No
Internet	:	Yes/No
Citation	:	Yes/No



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Dr.D.NAGARJUN,J.

Vca

To,

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