



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.24751 of 2014

TAHDCO Retired Staff Welfare Association,
(Reg No 204/2009)

Represented by its Secretary,

V.Krishnamurthy,

No.7, Kakkan Colony,

East Rajaram Salai,

K.K.Nagar, Trichy - 620 021.

...

Petitioner

versus

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary to
Government, Adi Dravidar & Tribal
Welfare Department,
Fort St.George,
Chennai - 600 009.

2.The Managing Director,
Tamil Nadu Adi Dravidar Housing and
Development Corporation Ltd.,
No.31, Cenotaph Road,
2nd Lane, Teynampet,
Chennai - 600 018.

3.The Regional Provident Fund Commissioner (TN),
Royapettah High Road,
Chennai - 600 014.

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Respondents



[R3 - impleaded as per order dated 07.10.2014 in M.P.No.1 of 2014 in W.P.No.24751 of 2014]

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondents relating to the impugned order of the first respondent bearing letter No.12477/ADW-1/2012-10 dated 18.10.2013 and quash the same and direct the respondents to pay equal contribution as per Section 6 of the Employees' Provident Fund Act, 1952 without any wage ceiling and pay the arrears of Provident Fund with interest at 12% to the Members of the Petitioner Association.

For Petitioner	:	M/s.L.Chandrakumar
For Respondent No.1	:	M/s.M.Jayanthy Additional Government Pleader
For Respondent No.2	:	Mr.M.Mathiyalagan [TAHDCO]
For Respondent No.3	:	Mr.T.R.Sundaram

ORDER

The Writ Petition has been filed challenging the order of the first respondent dated 18.10.2013 and direct the respondents to pay equal contribution as per Section 6 of the Employees' Provident Fund Act, 1952 [E.P.F. Act] without any wage ceiling and pay the arrears of Provident Fund with interest at 12% to the Members of the Petitioner Association.



2. Heard Mr.L.Chandrakumar, learned counsel for the petitioner and M/s.M.Jayanthi, learned Additional Government Pleader for the first respondent, Mr.M.Mathiyalagan, learned counsel for the second respondent and Mr.T.R.Sundaram, learned counsel for the third respondent and perused the materials available on record.

3. The petitioner has come out with a grievance stating that the employees' contributions have not been done in accordance with Section 6 of the E.P.F. Act. The representation given to the second respondent in this regard has been negated on the following observation:-

“4.Further, I am to state that, regarding the contribution of funds towards Employment Provident Fund, initially both employees and TAHDCO contributed 6.25% of employees wages towards Employees' Provident Fund. The Employees' Provident Fund contribution rate was enhanced to 8.33% of employees' wages. Equal amount was deducted from the employees and TAHDCO also made a matching contribution of 8.33%. In June 1989, the rate of contribution was enhanced to 10% of the employees' wages. TAHDCO adopted the enhancement of 10% of contribution but restricting to the minimum statutory provision (i.e.) restricting to a maximum limit of wages of Rs.3500/- irrespective of the



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quantum of individual wages. Subsequently in the year December 1996, 10% was calculated to a wage limit of Rs.5000/- limiting TAHDCO's contribution to Rs.500/- to an employee which is minimum contribution. On amendment to the Employees Provident Funds and Miscellaneous Provisions Act on 22.09.1997, the existing contribution towards Employees Provident Fund was enhanced to 12%. Following this, the employees of the corporation are contributing at 12% of the wages, while employer's share was 12% restricting the wages, to a maximum of Rs.5000 and this was further enhanced to Rs.6500/- with effect from June 2001, as per the provisions in the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (Central Act 19 of 1952) and the Employees' Provident Funds Scheme, 1952 which have limited the responsibility of the employer's share to a wage ceiling of Rs.6500/- per month.

5.I am therefore to state that the request for payment of employer's contribution of 12% of salary equal to the employees contributions towards Employees' Provident Fund on the wages over and above the statutory limit i.e. Rs.6500/- cannot be complied with and therefore the question of payment of arrears with interest also does not arise.”



4. As the petitioner derives his claim from the Employees' Provident Fund Act, which is a beneficial Act, he is governed only by the terms of the Act. If the petitioner has got any grievance that his employer violates the mandatory provisions of the E.P.F. Act, then the remedy would lie for him only before the appropriate authority under the E.P.F. Act. Without seeking recourse to the statutory authority and get it exhausted, the petitioner has straight away filed this writ petition, which in my opinion is premature and not maintainable.

5. Mr.L.Chandrakumar, learned counsel for the petitioner submitted that the second respondent Corporation instead of making a mandatory contribution on the basis of the percentage prescribed under the Act on the salary payable to the employees, has chosen to pay a lumpsum some portion according to his whims and it is violative of the mandates of the E.P.F. Act.

6. If the petitioner is aggrieved that he did not get any remedy from this Court, he can make representation before the third respondent and on receipt of the same, the third respondent can give a disposal on merits.



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7. With the above observations, this Writ Petition is **disposed**, by giving liberty to the petitioner to make his representation in this regard to the third respondent, within a period of two weeks from the date of receipt of a copy of this order. On such representation being made by the petitioner, the third respondent shall dispose the same and pass appropriate orders on merits, within a period of four weeks thereafter. No costs.

09.09.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

The Principal Secretary to Government,
Government of Tamil Nadu,
Adi Dravidar & Tribal Welfare Department,
Fort St.George,
Chennai - 600 009.



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R.N.MANJULA, J.

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