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W.P.No.23901 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2024

CORAM :

The Hon'ble MR.JUSTICE D.BHARATHA CHAKRAVARTHY

**W.P.No.23901 of 2022
and WMP No.22906 of 2022**

M/s Periyar University,
Represented by its Registrar (FAC),
Dr.R.Balagurunathan
Periyar Palkalai Nagar,
Salem – 636 011.

.. Petitioner

-VS-

Regional Provident Fund Commissioner - II,
Employees Provident Fund Organisation,
Regional Office, Steel Plant Road,
Dalavaipatti, Salem -636 302.

.. Respondent

Petition filed under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorari to call for the records
pertaining to the Recovery Notice bearing Ref.no.TN/CB.SLM/RECY/
90790/2022 dated 23.08.2022 and quash the same.

For Petitioner : Mr.P.Thangaraj

For Respondent : Mr.P.K.Panneerselvam
Standing Counsel

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ORDER

This writ petition is filed for writ of certiorari to call for the records pertaining to the recovery notice dated 23.08.2022 issued by the respondent.

2. By the impugned notice, it can be seen that the respondent is seeking to recover damages for the period from March 1998 to January 2015 to the tune of Rs.2,90,86,136/-. This apart, for the very same period, the impugned notice also seeks to recover interest to the tune of Rs.1,87,66,103/-.

3. On a perusal of the records of this case, it can be seen that originally an order under Section 7A of the Act has been passed in respect of the said period. The petitioner University, challenging the said order filed W.P.No.19177 of 2015 and in the meanwhile, an appeal seems to have been filed before the appellate authority and there also seems to be proceedings by the petitioner University with reference to the directions to refund the amount already realised by the respondent Organisation.



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4. Be that as it may, this Court is concerned only with reference to the payment of damages and interest in the instant proceedings. Originally, the summons was issued on 03.06.2015 directing the petitioner University to appear for enquiry with reference to the levy of damages under Section 14B and interest under Section 7Q of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (in short 'the Act'). Even aggrieved by the said summons, the petitioner filed E.P.F.A.No.133 of 2018. In the appeal, a conditional order was passed subject to the deposit of dues of a sum of Rs.1,87,66,130/- and in spite of the time being extended and the matter was listed for compliance, the same was not complied by the petitioner University within the time, that is before 31.03.2020 and accordingly, in view of the non-compliance, the appeal was dismissed. Thereafter, now the present notice dated 23.08.2022 was issued advising the petitioner to deposit the dues as aforementioned, aggrieved by which the present writ petition is filed.

5. It can be seen from the records that the respondent Organisation has only passed an order under Section 7A of the Act. When it wanted to pass further orders under Section 14B and 7Q of the Act, at the summons stage itself, the petitioner University



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approached the appellate tribunal and the proceedings were, ultimately, dismissed. Therefore, it would now be open to the respondent Organisation to pass orders with reference to 14B damages and 7Q interest. Without carrying out the said exercise, straightaway the impugned communication in the form of an advice to remit the amount calculated has been issued.

6. From the records, this Court does not find any order under Section 14B and 7Q of the Act being passed by the respondent Organisation. None is referred in the impugned notice also. Even upon enquiry, the learned counsel for the respondent is not in a position to point out any order which is being passed under Sections 14B and 7Q of the Act. In the absence thereof, I am of the view that the impugned notice is liable to be interfered with.

7. Accordingly, this writ petition is disposed of on the following terms:

- a) The impugned notice of the respondent dated 23.08.2022 bearing Ref.no.TN/CB.SLM/RECY/ 90790/2022 is set aside.
- b) It would be open to the respondent Organisation to pass orders under Sections 14B and 7Q of the Act in accordance with law, after giving due opportunity of hearing to the



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petitioner University in the manner known to law.

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

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Index : No
NC : No
Speaking

sra

To

The Regional Provident Fund Commissioner – II,
Employees Provident Fund Organisation,
Regional Office, Steel Plant Road,
Dalavaipatti, Salem -636 302.



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D.Bharatha Chakravarthy, J.

(sra)

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