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W.P.No. 37956 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No. 37956 of 2024

and

W.M.P.No.41034 of 2024

Deputy Director of Health Services, Villupuram,
District Health Society Villupuram,
Villupuram - 605 602.

... Petitioner

Vs

1. The Central Government Industrial Tribunal,
Cum-EPF Appellate Tribunal,
Haddows Road, Shastri Bhawan,
1st Floor, B wing Chennai - 6.
2. Regional Provident Fund Commissioner - I,
Employees Provident Fund Organization,
Regional Office, P.B.No. 588,
Sree Complex, 'D' Block,
No.18, Madurai Road,
Trichy - 620 008.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, to call for the records in connection with the impugned order passed by the second respondent in EPFA.No.64 of 2024 dated 29.08.2024 and quash the same and consequently



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direct the first respondent to take up the appeal filed by the petitioner in EPFA No..64 of 2024 and to decided the same on merits.

For Petitioner : M/s.J. Hudson Samuel and Partners

For Respondents : Mr.M.Palanimuthu

ORDER

This writ petition is filed challenging the order dated 29.08.2024 passed by the Appellate Authority under the Employees Provident Funds and Miscellaneous Provisions Act, 1952, thereby dismissing an appeal filed under Section 7-I of the Act for default.

2. It can be seen that if an appeal is dismissed for default under the Rules, there is a provision to restore the same only if an application is made within 30 days. Therefore, the petitioner has directly approached this Court since the 30 days time is over.

3. The learned counsel for the petitioner would submit that only because the in-charge presiding officer came and sat on the occasion, there was no any specific notice with reference to the same, the appeal was left for



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default; otherwise, the petitioner was duly prosecuting the appeal. The petitioner also earlier complied with the conditional order directing them to deposit a sum of Rs.52,28,963/- which was duly deposited as per the direction.

4. Mr.M.Palanimuthu, the learned counsel who takes notice on behalf the respondents would submit that firstly, the petitioner has not filed any proof for compliance of the conditional order. Secondly, the appeal number itself is wrongly mentioned as 64 of 2024 instead of 64 of 2022. In any event, when the petitioner has left the same for default, they must be put under additional terms. Further, proclaiming themselves to be an arm of the state, they themselves are not complying with the mandatory provisions of the Act. He would also submit that the total amount due is huge.

5. I have considered the rival submissions made on either side and perused the material records of the case.



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6. It can be seen that, as against the determination of the liability under Section 7A of the Act, an appeal lies under Section 7(I), accordingly, the present appeal was filed. When the same was taken on file as EPFA No. 64 of 2022, it was the responsibility of the petitioner to have duly followed up and argued the matter.

7. Considering the fact that there was no regular presiding officer, it was a human error in not following the matter, when the in-charge presiding officer came and sat to take up the appeal for final hearing, I am of the view that one more opportunity can be granted to the petitioner, especially considering the fact that, vide D.D.No. 252649 dated 31.07.2023, a sum of Rs.52,28,963/- has already been deposited.

8. In view thereof, the impugned order is set aside. The appeal in EPFA No. 64 of 2022 is restored to the file of the first respondent and the next date of hearing shall be on 10.01.2025. Even if the presiding officer is not sitting on 10.01.2025, it will be the responsibility of the petitioner to follow up the matter, ascertain the next date of hearing and argue the appeal on its merits



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without fail. It is made clear that no further opportunity will be given if the matter is left for default.

9. The writ petition is disposed of on the above terms. Consequently, connected miscellaneous petition is closed. No costs.

16.12.2024

Neutral Citation: Yes/No
nsl

To

1. The Central Government Industrial Tribunal,
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2. Regional Provident Fund Commissioner - I,
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D.BHARATHA CHAKRAVARTHY, J.

nsI

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