



W.P.(MD).Nos.7893 and 7906 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).Nos.7893 and 7906 of 2024

and

W.M.P.(MD).Nos.7177 and 7190 of 2024

W.P.(MD).No.7893 of 2024:

V.Thennarasu

... Petitioner

Vs.

- 1.The Registrar of Co-operative Societies,
O/o. The Registrar of Co-operative Societies,
No.170, N V Natarajan Maaligai,
Periyar EVR High Road,
Poonamallee High Road, Kilpauk,
Chennai – 600 010.
- 2.The Commissioner,
Employee's Provident Fund Organization,
Regional Office,
Bhavishya Nidhi Bhavan,
Madurai – 625 002.
- 3.The Chairman/Joint Registrar,
O/o. the Joint Registrar of Co-operative Societies,
Collectorate Unit II, Opp to Government Arts College for Women,
Kanjirangal,
Sivagangai.



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4.The Administrator,
M/s.NN426, Muppaiyur PACCS,
Devakottai Taluk,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the first respondent to take action upon the fourth respondent to remit both the Employers and the employee's Provident Funds dues to the second respondent, which was deducted from the salary of the petitioner and to further direct both the first and second respondents to take action upon the fourth respondent for not remitting the contribution to the Provident Fund Account of the petitioner.

W.P.(MD).No.7906 of 2024:

V.K.Sivasubramaniyan

... Petitioner

Vs.

1.The Registrar of Co-operative Societies,
O/o. The Registrar of Co-operative Societies,
No.170, N V Natarajan Maaligai,
Periyar EVR High Road,
Poonamallee High Road, Kilpauk,
Chennai – 600 010.

2.The Commissioner,
Employee's Provident Fund Organization,
Regional Office,
Bhavishya Nidhi Bhavan,
Madurai – 625 002.



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3.The Chairman/Joint Registrar,
O/o. the Joint Registrar of Co-operative Societies,
Collectorate Unit II, Opp to Government Arts College for Women,
Kanjirangal,
Sivagangai.

4.The Administrator,
M/s.NN426, Muppaiyur PACCS,
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Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the first respondent to take action upon the fourth respondent to remit both the Employers and the employee's Provident Funds dues to the second respondent, which was deducted from the salary of the petitioner and to further direct both the first and second respondents to take action upon the fourth respondent for not remitting the contribution to the Provident Fund Account of the petitioner.

(In both Writ Petitions):

For Petitioner	: Mr.A.S.Krishnan
For R-1 and R-3	: Mr.S.Kameswaran Government Advocate
For R-2	: Mr.P.Karthick
For R-4	: Mr.C.G.Pethanaraj



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COMMON ORDER

The issue raised in both the Writ Petitions are one and the same.
Hence, a common order is passed.

2. These Writ Petitions have been filed for issuance of Writ of Mandamus, seeking direction against the first respondent to take action upon the fourth respondent to remit both the Employers and the employee's Provident Funds dues to the second respondent, which was deducted from the salary of the respective petitioner and to further direct both the first and second respondents to take action upon the fourth respondent for not remitting the contribution to the Provident Fund Account of the petitioners.

3. Heard Mr.A.S.Krishnan, learned counsel for the petitioners, Mr.S.Kameswaran, learned Government Advocate for the 1st and 3rd respondents, Mr.P.Karthick, learned counsel for the 2nd respondent and Mr.C.G.Pethanaraj, learned counsel for the 4th respondent.



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4. Mr.A.S.Krishnan, learned counsel for the petitioners submitted that the petitioner viz., V.K.Sivasubramaniyan joined the fourth respondent Co-operative Society as a Salesman in the year 1986 and the petitioner viz., V.Thennarasu joined the fourth respondent Co-operative Society as a Writer in the year 1998. The fourth respondent Society has deducted the employee's contribution from the salary of the petitioners. According to the petitioners, it is the duty of the fourth respondent to deduct the contribution from the salary of the petitioners and also to contribute some amount and thereafter remit both into the second respondent organization. However, the Employees Provident Fund has not been remitted by the fourth respondent to the office of the second respondent. Thus, the fourth respondent has failed to perform his statutory duty. In spite of the petitioners representation, no effective steps have been taken by the respondents. Hence, the petitioners have come before this Court by way of filing this Writ Petition.

5. Mr.C.G.Pethanaraj, learned counsel for the fourth respondent submitted that based on the bye-law of the Society, the fourth respondent



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has collected the contribution from his employees for their welfare and the employees are being permitted to take loan from the contribution made by them.

6. However, the petitioners do not state anything about the welfare scheme which was sponsored by the fourth respondent for the welfare of his employees. The specific contention of the petitioners is that the contribution that has been made towards the provident fund by the employer and employee should be paid to the rightful authority, namely, second respondent. It is made clear that the fourth respondent is collecting the contribution from the employees but had chosen to keep it as some other contribution and not in the provident fund contribution. It is submitted by the learned counsel for the fourth respondent that the second respondent will not accept the contributions unless there are more than 10 employees in the fourth respondent Institution.

7. Mr.S.Kameswaran, learned Government Advocate for the respondents 1 and 3 submitted that the second respondent was reluctant to get the contribution even when it is tendered to him.



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8. Mr.P.Karthick, learned counsel for the second respondent submitted that such payment has not been made so far and have not even applied to open the Employees Provident Fund account number. In such case, it is too much to expect the the second respondent to accept the payment even before an account is opened and an application is filed to that effect. The fourth respondent has no authority to collect any contribution from his employees on the pretext that he is adding interest on the same.

9. The third respondent who is the Superior Officer of the fourth respondent is under obligation to initiate appropriate action against the fourth respondent by calling upon him to offer his explanation as to the status of the contribution which was collected by him and as to why the contribution has not been remitted so far with the second respondent by opening an Employee's Provident Fund account in the name of the fourth respondent Co-operative Society.



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10. Since the petitioners and other employees may not be knowing the out come of the contributions collected from them in the name of Employee's Provident Fund, it is obligatory on the part of the respondents 1 and 3 to initiate action against the fourth respondent for making him answerable for the contribution collected by him from his employees.

11. With the above observations, the Writ Petitions are **disposed of** with a direction to the respondents 1 and 3 to conduct an enquiry and pass appropriate orders and if needed, direct the fourth respondent to pay both the employer and employee contributions along with interest, if any, to the second respondent, after completing the initial process of opening the account number etc. The entire exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

18.04.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

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To:

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- 2.The Commissioner,
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- 3.The Chairman/Joint Registrar,
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R.N.MANJULA, J.

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