



W.P(MD)No.20976 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.10.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.20976 of 2015

and

M.P.(MD)No.1 of 2015

M/s.TREC-STEP
Thuvakudi,
Tiruchirapalli - 620 015,
Tiruchirappalli District,
Through its Executive Director

... Petitioner

Vs

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Sub Regional Office,
No.18 Sri Complex,
Madurai Road, Trichy 8.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records from the file of the respondent herein in TN/SRO-TRY/PDC/C-14/81025/14B PROC/2015, dated 05.10.2015 and to quash the same.



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For Petitioner : Mr.C.Karthikeyan
for Mr.P.Chandra Bose,
For Respondent : Mr.I.Pinaygash

ORDER

The proceedings of the Assistant Provident Fund Commissioner, dated 05.10.2015 levying penal damages under Section 14(B) of the Employees' Provident Fund and Miscellaneous Provisions Act 1952 is challenged in this petition.

2.The first respondent has initiated the proceedings under Section 14B of the Act in the year 2014 that the writ petitioner Management has paid the contribution belatedly for the period September 1999 to July 2013. The first respondent has also passed an order levying penal damages as against the establishment on 17.12.2014 that the petitioner Management has to pay a sum of Rs.32,12,494/- as damages for this belated payment as per the provision under Section 14B of the Act. As against this proceedings, the establishment has filed an appeal under Section 7-I of the Act before the EPF Tribunal in A.T.A.No.262(13)/2015 (New No.E.P.F.A.No.50/2018). The establishment has also challenged



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the quantum of interest derived by the first respondent under Section 7Q of the Act by filing a review application before the authority. The same was dismissed by the first respondent in TN/SRO - TRY/PDC/C-14/81025/2015, dated 11.03.2015. As against this review order, the establishment has filed a writ petition before this Court in W.P(MD)No.9374 of 2015, this writ petition was disposed by this Court remitting the matter for fresh consideration by the first respondent. However, the first respondent, while considering this issue afresh has passed a separate order under Section 7Q of the Act and also further order under Section 14(B) of the Act by order, dated 05.10.2015 and the same is challenged in this writ petition.

3.The learned Counsel appearing for the petitioner submits that for the same period, the first respondent has already passed an order levying damages under Section 14(B) of the Act on 17.12.2014 and the same is pending before the Central Government Industrial Tribunal, Chennai in E.P.F.Appeal.No.50/2018. While so, it is not proper on the part of the first respondent to once again levy the damages under Section 14(B) of the Act for the belated payment made by the establishment from September 1999 to July 2013.



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4.The learned Counsel appearing for the first respondent submits that this order has been passed pursuant to the directions of this Court in W.P(MD)No.9374 of 2015 and there is no error in the order, dated 05.10.2015.

5.This Court has considered the rival submissions made.

6.The first respondent has already conducted a proceedings for this belated payment made by the establishment and has also levied penal damages under Section 14(B) of the Act that order was also challenged before the appellate tribunal. With regard to the rate of interest arrived by the first respondent under Section 7(Q) of the Act, the petitioner has filed a review application and the same was dismissed by order, dated 11.03.2015, which was challenged in the writ petition in W.P(MD)No. 9374 of 2015. The said writ petition was also disposed based on the submissions of the first respondent that the petitioner was not provided fair opportunity and therefore, this Court remitted the matter for fresh consideration by the first respondent with regard to the quantum of interest arrived at under Section 7 Q of the Act by affording an



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opportunity and also by imposing the condition to deposit a sum of Rs. 8,00,000/-. The petitioner has also paid the amount of Rs.8,00,000/-.

Therefore, the first respondent ought to have passed the fresh orders as per the directions of this Court in W.P(MD)No.9374 of 2015 only under Section 7Q of the Act and not under Section 14(B) of the Act.

7. Therefore, this impugned order is set aside. Accordingly, this writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

8. It is reported that while passing the impugned order, a separate proceedings has been initiated with regard to the interest liable to be paid under Section 7Q of the Act and the same is challenged by the petitioner by filing a writ petition before this Court. The parties shall workout the remedy in the pending writ petition and pending appeal before the authority.

9. Since it is reported that the appeal of the year 2014 is pending for the past ten years, the appellate tribunal shall endeavour to conclude the appeal as expeditiously as possible, within a period of twelve weeks,



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from the date of receipt of a copy of this order.

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Internet :Yes
Index :Yes/No
NCC :Yes/No

LR

To

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