



W.P(MD)No.2436 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.2436 of 2015

and

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

Shiva College of Education,
Represented by its Secretary,
S.Prabhakaran,
Shiva College of Education,
Thuraiyur Road,
Devenur Village, Thahthaiyankarpettai,
Musiri Taluk,
Tiruchirappalli District.

... Petitioner

Vs

The Assistant Provident Fund,
Commissioner, Tiruchirappalli.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the respondent in C-15/TN/81207/PDC/SRO-TRY/7Q/2014 and No.C-15/TN/81207/PDC/SRO-TRY/14B/2014 dated 20.8.2014 and quash the same as illegal and direct the respondent to give sufficient opportunity or hearing to the petitioner before passing the order.



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For Petitioner : Mr.C.Karthikeyan,
Legal Aid Counsel

For Respondent : Mr.N.Dilip Kumar

ORDER

The petitioner has filed this petition as against the order passed by the EPF authority levying damages under Section 14B of the Employees' Provident Fund and Miscellaneous Provisions Act for the belated payment of EPF contribution from September 2009 to December 2013 and the order passed under Section 7 Q of the Act levying interest for the contribution.

2.When the petition was taken up for hearing, there was no representation for the petitioner on 15.10.2024 and 19.10.2024. Therefore, this petition was directed to be listed on 22.10.2024 under the caption 'for dismissal', on that day also there was no representation for the petitioner.



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3.The learned Counsel for the petitioner has filed a memo stating that the Management of the petitioner College was taken over by another person and there is no instructions for him. Recording the memo, this Court has appointed Mr.C.Karthikeyan, learned Counsel as Legal Aid Counsel, who is regularly appearing before this Court for the Management in the EPF matters and proceeded with the case.

4.Heard the learned Counsel for the respondent and also perused the materials placed on record.

5.This petition is filed as against the order passed by the EPF authority under Sections 14B and 7Q of the Act. The respondent EPF authority found that the petitioner College has failed to pay the EPF contribution, from the inspection conducted by the authorities on 23.04.2012 and 24.04.2012. Therefore, the EPF authorities issued notice to the petitioner College, conducted an enquiry and determined the contribution liable to be paid by the petitioner College under Section 7A of the Act on 16.07.2013. The EPF authorities have also simultaneously proceeded for the damages liable to be paid by the petitioner Institution College for the non-payment of EPF amount from the month of



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September 2009 to December 2013 by issuing notice under Section 14B of the Act and also determined the damages as Rs.52,977/- in No.C-15/TN/81207/PDC/SRO-TRY/14B/2014, dated 20.08.2014. The belated payment is also liable to be levied with interest as per Section 7Q of the Act and therefore, the authority has passed a separate order demanding interest at the rate of 12% per annum as per the statute under Section 7Q of the Act in C-15/TN/81207/PDC/SRO-TRY/7Q/2014, dated 20.08.2014. Both the orders are passed under Sections 14B and 7Q of the Act are challenged in this petition.

6.As against the order passed under Section 14B of the Act, the petitioner is having appeal remedy under Section 7-I of the Act. Without invoking the remedy available with the petitioner, the petitioner has filed this petition.

7.This Court has also perused the grounds raised by the petitioner. The petitioner has not made out any ground to substantiate that they are not liable to pay the EPF contribution. The order of the EPF authority determining the amount under Section 7A of the Act has not been challenged by the petitioner. The petitioner is liable to pay the EPF



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contribution under the Act and they have not paid the contribution from September 2009 to December 2013 and if there is any delay in payment of contribution, the authority is entitled to levy the damages under Section 14B of the Act.

8.Perusal of the impugned order, dated 20.08.2014 reveals that an opportunity was provided by issuing summons to the petitioner on 05.05.2024 requiring his appearance on 28.05.2014 and again on 28.06.2014. There was a representation from the petitioner side on 28.06.2014 and the enquiry was adjourned to 07.08.2014. However, there was no representation on 07.08.2014.

9.The damages levied by the authority in the impugned order is Rs. 52,977/-. This Court while entertaining the petition, has issued an interim direction to the petitioner College to pay a sum of Rs.20,000/- and it appears that the petitioner has also paid the portion of the damages already levied in the impugned order.

10.Since the petitioner has not made out any case, interference of this Court with the impugned order is not necessary. Accordingly, this



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writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11.The Legal Aid Authority is directed to pay a sum of Rs.10,000/- to Mr.C.Karthikeyan, learned legal aid Counsel.

23.10.2024

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

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