IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2025

CORAM :

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.241 of 2015
and
W.M.P.No.7045 of 2015

Central Board of Trustees Rep by (EPF)
Assistant Provident Fund Commissioner
O/o Regional Provident Fund Commissioner
Dr. Balasundaram Road,
Coimbatore – 641 018. ...Petitioner

Vs.

1. Presiding Officre
Employees Provident Fund Appellate Tribunal
(Ministry of Labour & Employment,
Government of India)
SCOPE MINAR, CORE II, 4th Floor,
Lakshmi Nagar District Centre
Lakshmi Nagar
New Delhi 110 092.

2. M/s B.C.W.Tech Services India (P) Ltd,
Pillar Koil Street
Kottaipalayam P.O.
Coimbatore 641 010

...Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified mandamus to call for the records pertaining to the ATA No. 352(13) of 2012 dated 08.03.2013 and to quash the same and direct the 2nd respondent to remit the amount assessed by the petitioner towards the EPF dues.

For Petitioner : Mr. C. Kulanthaivel

For Respondent : R1- Tribunal
R2- Dismissed vide order dated 14.03.2019

O R D E R

The petitioner impugns the order dated 08.03.2013 in ATA No. 352(13) of 2012 on the file of Employees' Provident Fund Appellate Tribunal, New Delhi.

2. The facts in a nutshell are that the petitioner issued a notice to the second respondent herein to produce documents for determining the provident fund dues in respect of all eligible employees working under the second respondent herein. The second respondent produced records wherein components like Basic, Dearness allowance, House Rent allowance, Overtime allowance, washing allowance and Special allowance were shown in respect of workers and in respect of staff, the components like Basic, House Rent Allowance, Conveyance & Special allowance. The petitioner has passed an

order dated 31.01.2012 directing the second respondent herein to pay a sum of Rs.3,02,733/- to the employees provident fund account to the workers. Challenging the same, the second respondent herein preferred an appeal. The appellate Tribunal vide impugned order held that Washing allowance could be treated as part of basic wages ; and, the Out Station Allowance cannot be termed as an allowance earned vide on duty. The appeal was partly allowed. Questioning the correctness of the said judgment, the present petition is filed.

3. Considering the short point to be determined in this writ petition, the arguments advanced on both sides is not discussed.

4. This Court is in complete agreement with the order passed by the appellate Tribunal that washing allowance would be treated to be part of basic wages for the simple reason that the workers are the separate class in themselves and they have to keep their uniform neat and clean. This Court is in agreement that the finding rendered by the appellate Tribunal that outstation allowance cannot be treated as an allowance earned while on duty for the reason that this allowance is not given to all. Likewise, the special allowance, performance allowance etc are not necessarily earned by all

employees, so, they will not constitute part of wages.

5. This Court is in complete agreement that the finding rendered by the appellate Tribunal. Hence, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11.03.2025

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NCC : Yes/No
Index : Yes/No
Speaking Order : Yes/No

To
Presiding Officre
Employees Provident Fund Appellate Tribunal
(Ministry of Labour & Employment,
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SCOPE MINAR, CORE II, 4th Floor,
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New Delhi 110 092.

M.DHANDAPANI, J.

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