



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 09.07.2025

CORAM

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P.No.15546 of 2022
and
W.M.P.No.14727 of 2022

Groom India Salon and SPA Private Limited,
9-B Ganga Griha, I Floor,
Nungambakkam High Road,
Opp Ispahani Centre
Chennai - 600 034
Rep.by its Authorised Signatory

...Petitioner

...Versus...

- 1.The Regional Provident Fund Commissioner - II (Comp)
Regional Office, Chennai - I
Employees' Provident Fund Organisation
37 Royapettah High Road
Chennai - 600 014.
2. The Assistant Provident Fund Commissioner,
Regional Office, Chennai - I
Employees' Provident Fund Organisation
37 Royapettah High Road,
Chennai - 600 014.
3. The Recovery Officer,
Office of the Recovery Officer,
Employees' Provident Fund Organisation
37 Royapettah High Road
Chennai - 600 014

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India



praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st and 2nd respondent in proceedings No.TN/RO/CHN-1/CC-1/TN/83169/Div.22/Enf/2021 and quash its order dated 29.12.2021 passed by the 2nd respondent and 02.05.2022 passed under Section 7A & Section 7B of the EPF Act by the 1st respondent, further direct the 1st respondent to provide opportunity to the petitioner by reopening the enquiry.

For Petitioner :: Mr.Haroon AL Rasheed
For M/s.Agam Legal Advocates DT

For Respondents :: Mr.K.Venkatesan,
Standing Counsel

ORDER

This Writ Petition is filed against the orders passed by the first and second respondents in proceedings No.TN/RO/CHN-1/TN/83169/Div.22/Enf/2021, dated 29.12.2021 and 02.05.2022, seeking to quash the same under Sections 7-A and 7-B of the EPF Act, and further to direct the first respondent to provide an opportunity to the petitioner by reopening the enquiry.

2. The learned counsel for the petitioner submits that respondents 1 and 2 have passed orders under Sections 7-A and 7-B of the EPF Act, in proceedings dated 29.12.2021 and 02.05.2022. Thereafter, the petitioner filed a petition seeking review of the order passed by the authorities. In the



review application, it was contended that the order dated 29.12.2021, passed under Section 7-A, failed to explicitly state how a sum of Rs.16,98,062/- was determined as due towards contribution from the petitioner. The issues framed were not answered in the said order dated 29.12.2021. The petitioner has filed challans showing payment of contributions for the relevant period in respect of 85, 86 and 87 employees respectively, whereas the calculation in the order mentions 105, 107 and 104 employees on the rolls of the petitioner. Therefore, the petitioner prayed for a review of the order, but the same was not considered, and the impugned order dated 02.05.2022 was passed without affording an opportunity of hearing to the petitioner in the review application. Hence, the orders passed by respondents 1 and 2 are liable to be set aside. However, since appeal proceedings are available against the order passed under Section 7-A, the petitioner is presently restricting the prayer to challenge only the order passed under Section 7-B of the E.P.F Act.

3. The learned counsel for the petitioner also pointed out that no E.O report was served on the petitioner during the proceedings under Section 7-A of the Act.

4. The learned counsel for the respondents submits that the writ petition itself is not maintainable, as the petitioner has an alternative remedy



by way of an appeal. The authorities have passed orders only after affording an opportunity to the petitioner, who has now filed this writ petition merely to delay the proceedings. Therefore, the writ petition is not maintainable. The authorities have passed a detailed order under Section 7-A of the act, and the petitioner had appeared in five enquiry hearings. Hence, sufficient opportunities were given to the petitioner, and orders were passed under Section 7-A. As far as the order passed under Section 7-B is concerned, the authority has discussed the opportunities provided to the petitioner during several hearings on the 7-A application. There are no grounds to entertain the review application. Therefore, the orders passed by the authorities are proper, and the writ petition is liable to be dismissed.

5. The learned counsel for the respondents also submitted that the E.O report had already been served, and the same has been reflected in the review order. However, if the copies have not been served on the petitioner, he is at liberty to make a request for furnishing a copy of the order.

6. Heard both sides and perused the materials available on records.

7. As far as the maintainability of the writ petition in respect of the

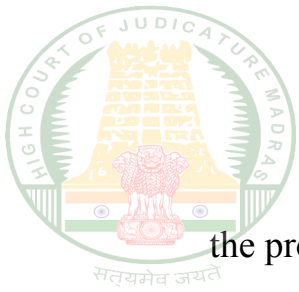


order passed under Section 7-A is concerned, the learned counsel appearing for the petitioner fairly conceded that if the authority had considered the grounds raised in the review application, it ought to have allowed the application. Therefore, the order under Section 7-A is subject to the order passed under Section 7-B in the review proceedings. Accordingly, he himself submitted that, insofar as the order under Section 7-A is concerned, they are not pressing the challenge to the said order in this writ petition.

8. As far as the maintainability of the writ petition in respect of the application filed under Section 7-B is concerned, it is relevant to note that, as per the provisions of Section 7-B (5) of the act":

"No appeal shall lie against the order of the officer rejecting an application for review, but an appeal under this Act shall lie against an order passed under review as if the order passed under review were the original order passed by him under Section 7-A".

9. In view of the provision under Section 7-B(5) of the Act, no appeal remedy is available hence the writ petition is maintainable. As far as the ground raised by the petitioner that no opportunity was given to him in



the proceedings under Section 7-B is concerned, on perusal of the records, it

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is evident that the authority has not mentioned anywhere that an opportunity was given to the petitioner before passing the order in the review application. The authority has merely reiterated the order passed under Section 7-A of the Act while disposing of the review application.

10. At this juncture, the learned counsel for the petitioner relied upon the following judgments:-

(i) 2017 SCC Online Jhar 3805 [St.Barnabas Hospital, Ranchi Vs.Assistant Provident Fund Commissioner, Jharkhand and others]

(ii) 2016 SCC OnLine Ori 98 [Orissa State Beverages Corporation Limited Vs.Regional Provident Fund Commissioner and others]

(iii) 2017 SCC OnLine Mad 18746 [Tamil Nadu Transmission Corporation Limited (formerly known as Tamil Nadu Electricity Board) General Construction Circle Salem-14, Rep.by its Superintending Engineer Vs.The Regional Provident Fund Commissioner, Office of the Regional Provident Fund Organisation S.J.Plaza, Swarnapuri, Salem-630 004 and others]

11. On a careful perusal of the judgments, it is clear that once the petitioner files a review application, the authority is required to grant an opportunity of hearing before passing orders. In this case, no such opportunity was given to the petitioner before passing the order in the review application. Therefore, the order passed by the authority without



hearing the petitioner is violation of principles of natural justice and the same is liable to be set aside. Accordingly, the order passed by the second respondent in proceedings No.TN/RO/CHN-1/TN/83169/Div.22/Enf/2021 dated 02.05.2022 is set aside. Insofar as the proceedings in No.TN/RO/CHN-1/TN/83169/Div.22/Enf/2021 passed by the second respondent under Section 7-A of the Act are concerned, the writ petition is dismissed.

12. Since the matter has been pending since 2022, the first respondent is directed to dispose of the review application after affording an opportunity of hearing to both parties, in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

13. With the above observations, this *Writ Petition is disposed of.*

No costs. Consequently, connected W.M.P is closed.

09.07.2025

nvi

Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To:

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nvi



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