IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2025

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THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.21428 of 2022
and
W.M.P.Nos.20423 & 20424 of 2022

M/s.V.Abdul Jabbar & Sons
Goat Mark Beedis
Rep. by Partner V.I.Mohammed Ghouse
No.2/127, Chitteri Road
Ariyur Post
Vellore - 632 055. ... Petitioner

vs.

1. The Regional Provident Fund Commissioner
The Employees Provident Fund Organization
S-I, TNHB, Phase - III
Sathuvachari, Vellore - 632 009.

2. The Assistant Provident Fund Commissioner
Employees Provident Fund Organization
Sub Regional office
S-1, TNHB, Phase III
Sathuvachari, Vellore - 632 009.

3. The Recovery Officer
The Employees Provident Fund Organisation
S-1, TNHB, Phase-III
Sathuvachari, Vellore - 632 009.

4. The Assessing Officer
The Employees Provident Fund Organisation
S-1, TNHB, Phase-III
Sathuvachari, Vellore - 632 009. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records of the impugned order dated 06.04.2022 passed by the 2nd respondent bearing No.TB/VLR/8209/Div-IV/Compliance/56 and quash the same and consequently, direct the 2nd respondent to consider the review application dated 18.11.2020 afresh after providing personal hearing to the petitioner.

For Petitioner : Mr.K.M.Aasim Shehzad
For Respondents : Mr.R.Thirunavukkarasu

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ORDER

The captioned Writ Petition (hereinafter referred to as “WP” for the sake of brevity, convenience, and clarity) has been filed seeking issuance of a Writ of Certiorari, assailing the order dated 06.04.2022 passed by the second respondent. By the said order, the review petition filed by the petitioner under Section 7-B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (Act 19 of 1952) (hereinafter referred to as "the Act, 1952" for brevity, convenience, and clarity) seeking review of the order dated 13.10.2020 came to be dismissed.

2. The second respondent, by order dated 13.10.2020, determined a sum of Rs.16,75,228/- as the amount payable by the petitioner–establishment towards Employees' Provident Fund contributions.

3. Aggrieved by the said determination, the petitioner filed a review petition on 18.11.2020 under Section 7-B of the Act, 1952, contending that certain errors had crept into the order passed under Section 7-A of the Act. It was specifically contended that 44 contractors were newly issued Registration Certificates by the Central Excise Department along with provident fund code numbers, and hence they could not have existed in 1977, rendering them ineligible for arrears.

4. The petitioner further asserted that the difference between the order form and Form 9 was 559 workers; that out of 695 workers pertaining to the said 44 contractors, who were shown as having been issued on 01.01.1986, such workers were not eligible for arrears; and that the number of workers legitimately entitled to arrears was only 2,681.

5. The respondents thereafter issued a communication dated 15.06.2021, acknowledging that the review petition under Section 7-B was pending consideration and explaining that the delay was attributable to the Enforcement Officers and the restrictions prevailing during the second wave of the COVID-19 pandemic, when the office was functioning with a minimal number of staff. The communication assured the petitioner that further notice would be issued in due course.

6. However, according to the petitioner, without issuing any such notice of hearing, the second respondent proceeded to pass the impugned order dated 06.04.2022, dismissing the review petition. It is this order that is under challenge in the present WP.

7. Heard the learned counsel appearing for the petitioner and the learned counsel representing the respondents. Records have also been perused.

8. Section 7-B of the Act, 1952, provides that any person aggrieved by an order made under sub-section (1) of Section 7-A, but from which no appeal has been preferred, and who, upon discovery of new and important matter or evidence which, after exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of such order, may apply for such review to the officer who passed the original order.

9. Sub-section (3) of Section 7-B stipulates that where it appears to the officer receiving an application for review that there is no sufficient ground for review, he shall reject the same.

10. Sub-section (4) thereof provides that if the officer is of the opinion that the application for review should be granted, he shall grant the review and proceed to reconsider the matter accordingly.

11. While Section 7-A of the Act mandates that before determining any dues, the employer or establishment must be afforded an opportunity of hearing, the scheme of Section 7-B equally mandates that a review petitioner must be given a fair opportunity of being heard before any order is passed thereon.

12. Therefore, the contention advanced on behalf of the respondents that there is no requirement of hearing the petitioner before dismissing the review petition is devoid of substance and cannot be accepted.

13. Admittedly, no notice of hearing was issued to the petitioner prior to passing of the impugned order dated 06.04.2022. On the contrary, the earlier communication dated 15.06.2021 expressly stated that notice would be served upon the petitioner before the review petition was taken up for consideration. The impugned order, having been passed without issuance of

such notice, is thus in violation of the principles of natural justice and cannot be sustained.

14. This Court is of the considered opinion that the second respondent has failed to adhere to the fundamental procedural safeguard of granting an opportunity of hearing to the petitioner before dismissing the review petition. The failure to issue notice and afford an opportunity to present the petitioner's case has resulted in serious procedural irregularity vitiating the impugned proceedings.

15. In view of the foregoing discussion, the captioned Writ Petition is allowed. The impugned order dated 06.04.2022, bearing reference No. TB/VLR/8209/Div-IV/Compliance/56, passed by the second respondent / Employees' Provident Fund Organisation, is hereby quashed.

16. The matter is remitted to the second respondent for fresh consideration of the petitioner's review petition under Section 7-B of the Act, 1952, and to pass appropriate orders on its own merits and in

accordance with law, after affording due opportunity of hearing to the petitioner.

17. However, this order is subject to the condition that the petitioner shall deposit the admitted liability of Rs. 8,47,435/- before the respondents within a period of eight (8) weeks from today. Failure to deposit this amount will automatically result in dismissal of the review petition .

18. The aforesaid exercise shall be completed by the Second Respondent within a period of three (3) months from the date of amount to be deposited by the petitioner as stated supra. Consequently, the connected miscellaneous petitions stand closed. There shall be no order as to costs.

25.09.2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking / Non-speaking

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HEMANT CHANDANGOUDAR, J.,

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