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W.P. No.33444 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.33444 of 2022

Democratic Labour Union,
23A, Thozhar Koodam,
Mariamman Koil Street,
Maya Street, Ambattur,
Chennai - 600 053.

.. Petitioner

vs.

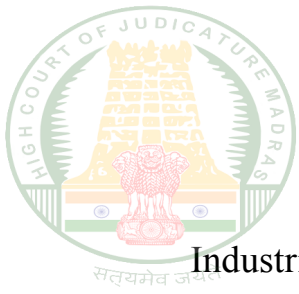
The Management,
Saimira Innopharm Pvt. Ltd.,
No.288-299, SIDCO Industrial Estate,
Ambattur, Chennai - 600 098. .. Respondent

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus calling for the records in the impugned order of the Industrial Tribunal, Chennai in O.P. No.15 of 2021 on 11.11.2022 and to quash the same and to direct the respondent to continue its EPF Contribution by not pressing its proposed change as per 01.11.2019 notice.

For Petitioner : Mr. S. Kumaraswamy
For Respondent : Mr. R. Sreerangan.

ORDER

This Writ petition has been filed against the Award passed by the



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Industrial Tribunal, Chennai in O.P. No.15 of 2021 dated 11.11.2022, wherein the petitioner Union has raised an industrial dispute as against the respondent Management and the same was dismissed. Aggrieved by the said Award, the present Writ petition has been filed.

2. The learned counsel for the petitioner would submit that the petitioner is the Union functioning as a collective bargaining agent in the respondent's factory. The Employees' Provident Fund and Miscellaneous Provisions Act, 1952 is applicable to the respondent's factory. The contribution limit was fixed at Rs.15,000/- of the employee's salary and the EPF Act did not prohibit or ban the employer from paying provident fund contribution beyond the salary limit fixed. Since the respondent company is a profit making reputed Pharma industry, it decided on its own to contribute its share of provident fund to the extent of the employee's full basic salary instead of the salary limit fixed under the Act. As per Section 12 of the Employees' Provident Fund Act, total quantum of benefits in the nature of provident fund to which the employees are entitled under the terms of employment express or implied shall not be reduced by any employer. As far as Schedule IV of the Industrial Disputes Act lists out the conditions of



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service for change of which notice is to be given and that the second item in the list states that 'contribution paid or payable, by the employer to any provident fund or pension fund or for the benefit of the workmen under any Law for the time being in force". Therefore, as per Section 33(1)(a), the condition of service can not be changed to the prejudice of the worker concerned in regard to any matter connected with the dispute which was applicable to him before the commencement of the proceeding without the express permission in writing of the authority before whom the proceeding is pending. No employer shall effect any change in the conditions of service applicable to the workers in respect of any matter specified in the IV Schedule without giving notice to the workmen under Section 9A of the Industrial Disputes Act. While so, the Management stated that confining themselves to the payment of PF contribution to the prescribed salary limit of Rs.15,000/- and they would not pay the same beyond 01.12.2019. In the said notice dated 01.11.2019, the respondent cited its financial difficulty and its having paid interest and damages for non-payment of EPF contribution in due time in the year 2013 as the reason for preparing to discontinue a service condition. Aggrieved by the said proposed change of reduction in Provident contribution raised an industrial dispute. Before the Industrial Tribunal, on the side of the

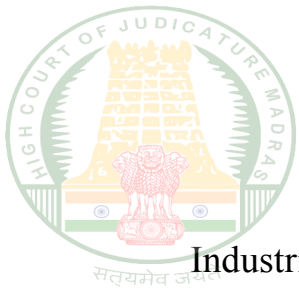


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petitioner, one witness was examined and 7 documents were marked.

Whereas on the side of respondent, no oral or documentary evidences were adduced. The Tribunal, wrongly concluded that the Court cannot compel the Management to pay beyond the statutory limit by way of Employees' Provident Fund contributions and failed to consider that the Management has not justified its proposal for reduction in Provident Fund contribution and the Management did not let in any evidence to that effect. Therefore, the order passed by the Industrial Tribunal is liable to be quashed.

3. The learned counsel appearing for the respondent would submit that the respondent company prior to the notice given by the Management, the Management deposited 12% as employer's contribution without any limit. While so, in the year 2018, due to default in payment of employer's contribution, a fine of Rs.10,36,695/- was levied and in order to bear the said expenses, the company was forced to obtain loan and thereafter the Management felt that the payment of excess contribution results in severe financial burden to the company. Therefore, the Management decided to reduce the employer contribution in accordance to the statutory limit provided under the Provident Fund Act. Therefore, notice under Section 9A of the



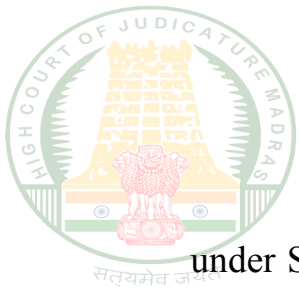
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Industrial Disputes Act, was issued to the workman on 01.11.2019 and the employer has been depositing the contribution as per the Act without any deviation. Therefore, the demand raised by the workmen is not maintainable. As per Section 29(2) of the Act and Section 6 of the Employees Provident Fund Act, the Management has to pay 12% of contribution with maximum limit Rs.15,000/-. However, the respondent company paid more than the prescribed limit fixed by the Act. The workmen cannot compel the employer to pay EPF amount higher than the limit fixed by the Statute. The respondent Management also issued notice under Section 9A of the Industrial Disputes Act. The Labour Court also after elaborate discussions and relying upon the judgements of Hon'ble Supreme Court, correctly dismissed the petition. Therefore, the present Writ petition is liable to be dismissed.

4. Heard both sides and perused the entire materials available on record.

5. In this case, there is no dispute that the respondent Management covered under the Employees' Provident Fund Act and the contributions were also being paid more than the statutory limit prescribed under the Act. Thereafter, the Management issued notice dated 01.11.2019 to the employees



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under Section 9A of the Act for the payment of contributions by reducing the contributions within the limit prescribed by law. According to the petitioner, as per *Section 12 of the Employees Provident Fund Act*, the total quantum of benefits in the nature of provident fund, to which the employee is entitled under terms of his employment express or implied shall not be reduced by any employer. Here, in this case, as per the Act, the employees are entitled to 12% for the maximum limit of Rs.15,000/-. Therefore, there is no reduction as per Section 12 of the Employees Provident Fund Act.

6. There is no any evidence to show that the employees are entitled under terms of employment that they are entitled for the Employees Provident Fund amount more than the statutory contributions. Merely because, the Management paid excess contribution earlier, it cannot be termed as the employees are entitled to Provident Fund as already paid.

7. At this juncture, it is relevant to refer the judgment of Hon'ble Supreme Court in ***Marathwada Gramin vs. Management of Marathwada Gramin Bank***, wherein, in Para 27, it was observed as follows:-

"27. The respondent bank is under an obligation to pay provident fund to its employees in accordance with the provisions of statutory Scheme. The respondent bank cannot be compelled to pay the amount in excess of its statutory liability for all times to come just because the respondent bank formed its own trust and started paying provident fund in excess of its statutory liability for some time. The appellants are certainly entitled to provident fund according to statutory liability



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of the respondent bank. The respondent bank never discontinued its contribution toward provident fund according to the provisions of the statutory Scheme".

8. On a careful perusal of the above said judgment, it is clear that the Management cannot be compelled to pay the amount in excess of its statutory liability. In this case, the Management paid the contributions in excess voluntarily and there is no any bar for the employer to pay the higher contribution voluntarily. Now, due to huge penalty paid by the Management, they decided to reduce the amount and for that, they issued a notice under Section 9A of the Industrial Disputes Act on 01.11.2019. Therefore, the Management after following the principles of natural justice reduced the contribution and the petitioner Union cannot compel the Management to pay excess contribution. In this context, the Labour Court after considering the evidences adduced by the petitioner side came to a fair conclusion and there is no any perversity or illegality found in the order passed by the Labour Court and it does not warrant interference.

9. In view of the above discussions, this Court is of the opinion that the Writ petition has no merits and deserves to be dismissed.



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10. Accordingly, the Writ petition is dismissed. There shall be no order as to costs.

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Index : Yes/No.
Speaking order/non-speaking order
mjs

To

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No.288-299, SIDCO Industrial Estate,
Ambattur, Chennai - 600 098.

P. DHANABAL, J.,

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