



W.P.(MD)No.5084 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)No.5084 of 2025
and W.M.P.(MD)No.3696 of 2025

Althaf Rizwan

... Petitioner

Vs.

1.The Assistant Provident Fund
Commissioner / Recovery Officer,
EPF Organization,
65A, Water Tank Road,
Nagercoil,
Kanyakumari District.

2.The Enforcement Officer,
EPF Organization,
65A, Water Tank Road,
Nagercoil,
Kanyakumari District.

3.The Branch Manager,
ICICI Bank,
Nagercoil Branch,
Kanyakumari District.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the 1st respondent under Section 7A of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 in No. TN/NGL/Enf/C-32/7A Order/2210154/D.No.259/2023/2023-24 dated 12.12.2023 and consequential order passed under Section 8F of the Act in No. MD/NKL/2210154/Recovery/8F/2024 dated 04.12.2024, quash the same and consequently directing the respondents to conduct enquiry after giving proper opportunity of personal hearing to the petitioner and pass order within the time stipulated by this Court.

For Petitioner : Mr.J.Malai Raja
for M/s.Spicy Law Firm

For Respondents : Mr.M.Mahaboob Athif for R1 & R2
Mr.Krishan for
M/s.Acquity Law Associates for R3

ORDER

This Writ Petition has been filed aggrieved by an order dated 12.12.2023 passed under Section 7A of “the Employees Provident Funds and Miscellaneous



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Provisions Act, 1952” (hereinafter referred to as “the Act 1952” and the consequential order dated 04.12.2024 passed under Section 8F of the Act 1952.

2. The main ground on which the present Writ Petition has been filed is that the order dated 12.12.2023 has never been served on the petitioner. Taking note of the said contention, this Court required the learned Standing Counsel appearing for respondents 1 and 2 to inform this Court as to whether the said proceedings dated 12.12.2023 was served on the petitioner or not. Accordingly, the learned counsel for the respondents 1 and 2 placed before this Court a copy of the acknowledgment dated 15.12.2023, acknowledging the receipt of the order dated 12.12.2023 by the petitioner. In view of the same, the very basis on which, the present Writ Petition has been filed is last.

3. As against the order passed under Section 7A of the Act 1952, there is an effective remedy of appeal provided under Section 7-I of the Act 1952. The petitioner, having received the order dated 12.12.2023 as early as on 15.12.2023, failed to avail the remedy of appeal, but approached this Court belatedly by



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filing the present Writ Petition. Practically, the said order dated 12.12.2023 itself has attained finality. Today, it is further brought to the notice of this Court by learned counsel appearing for respondents 1 and 2 that in terms of the order passed under Section 8F of the Act, 1952, the entire amount due and payable by the petitioner under order dated 12.12.2023 has been remitted by the Reserve Bank of India on 18.02.2025 by duly deducting the said amount from the respondent No.3 herein.

4. Mr.Krishna, the learned counsel appearing for respondent No.3 submitted that the Reserve Bank of India has deducted the amounts due under order dated 12.12.2023 in an arbitrary manner from the respondent No.3 bank and remitted the same to the respondents 1 and 2. If that be the case, it is for the respondent No.3 to take appropriate action by initiating appropriate proceedings. That issue cannot be gone into in the present Writ Petition. As on date, admittedly, the entire amounts due under Section 7A of the Act 1952 dated 12.12.2023 has been recovered by the respondents 1 and 2, the proceeding initiated under Section 8F of the Act, 1952 by passing the order dated



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04.12.2024 have become infructuous. As the entire amount is already recovered by the respondents 1 and 2 and this Court is not inclined to examine the validity of the order dated 12.12.2023 on merits, this Court is not inclined to entertain the present Writ Petition. However, the petitioner is granted liberty to avail the appeal remedy provided under Section 7-I of the Act 1952, within a period of two weeks from today, subject to payment of cost of Rs.10,000/- payable to the respondent No.2 within a period of two weeks from today. In case, if any such appeal is filed by the petitioner, within the time stipulated above by duly complying with the condition of payment of cost, the said appeal shall be entertained by the appellate Tribunal without reference to the period of limitation prescribed under the statute.

5. Accordingly, this Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

10.03.2025

vsm

Neutral Citation: Yes / No

Index : Yes / No

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MUMMINENI SUDHEER KUMAR, J.

vsm

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