



W.P.(MD).No.10879 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.10879 of 2019

and

W.M.P(MD) No.8332 of 2019

M/s.Bishop Heber College (Autonomous)
No.8, Vayalur Road,
Puthur, Trichirappalli – 620 017,
Represented by its Principal.

... Petitioner

Vs.

Employees Provident Fund Organisation,
Sub- Regional Office,
Sree Complex,
Madurai Road, P.B.No.588,
Trichirappalli – 620 008
Represented by
The Assistant PF Commissioner.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records of the Hon'ble Central Government Industrial Tribunal-cum-Labour Court, Chennai in its order dated 05.04.2019 made in EPF A No.529/2018 by confirming the order passed by the respondent in TN/SRO-TRY/PDC/C13/82136/7Q PROC/ 2015, dated 08.12.2015 and quash the same.



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For Petitioner : Mr.Hemakarthiskeyan

For Respondent : Mr.N.Dilipkumar
Standing Counsel

ORDER

The present Writ Petition has been filed by the Establishment challenging the order passed by the respondent authority under Section 7Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

2. The petitioner/establishment was issued with a show cause notice on 20.05.2015 calling for an explanation as to why they should not be imposed with interest under Section 7Q of the Employees' Provident Funds and Miscellaneous Provisions Act, for the belated remitted submission of contribution for the period covering April 1996 to 12.03.2014. The petitioner establishment has submitted an explanation on 11.08.2015 contending that the orders under Section 7 A of the Act was issued belatedly and therefore, they cannot be blamed for the belated remittance of contribution. According to the petitioner/establishment, within a short period of time from the date of receipt of order under Section 7A of the EPF Act, the remittances have been made. Therefore, they are not liable to pay the interest as contemplated under



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Section 7Q of the Act. However, the order impugned in the writ petition came to be passed by the respondent on 27.10.2015 demanding a sum of Rs.1,52,41,842/- as interest covering the period between June 1995 and February 2013. This order is under challenge in the present writ petition.

3. According to the learned counsel appearing for the writ petitioner, there is a contradiction between the period covered under the show cause notice as well as the period for which the order impugned in the writ petition has been passed. The show cause notice was issued for the period starting from April 1996 to 12.03.2014. However, the impugned order has been issued for the period covering between June 1995 to February 2013.

4. The learned counsel appearing for the petitioner also pointed out that the order under Section 7A of the Act has been passed belatedly and within a week from the date of order, they have deposited the contribution amount. Therefore, they are not liable to pay any interest whatsoever. He further contended that the period of default has been erroneously calculated by the respondent organization and hence, the order impugned in the writ petition may be set aside.



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5. Per contra, the learned Standing Counsel appearing for the respondent/Employees Provident Fund Organization submitted that the liability to pay contribution arises from the date of coverage of the institution and not depending upon the date of order passed under Section 7A of the Act. Therefore, they are liable to pay the interest from the due date and not from the date of passing of the order under Section 7-A of the Act. In fact, the petitioner establishment has paid the entire contribution amount even before the orders were passed under Section 7-A of the EPF Act.

6. The learned Standing Counsel appearing for the respondent/ Organization further submitted that Section 7Q of the Act was introduced only on 01.07.1987 and therefore, the liability to pay the interest amount is from the said date. There is no discretion vested with the authorities either to reduce or modify the rate of interest to be paid by the establishment. In such circumstances, the discrepancy in show cause notice cannot be a ground for setting aside the order.

7. Heard both sides and perused the materials available on record.



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8. Section 7 Q was introduced in the Act with effect from 01.07.1987.

Therefore, the statutory liability to pay the interest would commence only from the said date. However, in the impugned order, the interest has been calculated for the period covering from June 1995 to February 2013. The respondent Organization is not entitled to claim any interest under Section 7Q of the Act up to 30.06.1997. Therefore, the said portion of the order is hereby set aside.

9. As rightly pointed out by the learned Standing Counsel for the respondent, the liability to pay the contribution arises from the due date and not from the date of passing of order under Section 7-A of the Act, and therefore, such a contention raised by the learned counsel appearing for the petitioner is not sustainable.

10. In view of the above said deliberations, the order impugned in the writ petition is partly set aside insofar as levying of interest up to 30.06.1997 is concerned. The rest of the order is hereby confirmed. The authorities are directed to issue fresh notice calculating the interest from 01.07.1997 till February 2013.



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11. With the above said observation, this Writ Petition stands partly allowed. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

20.06.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

The Assistant PF Commissioner,
Employees Provident Fund Organisation,
Sub- Regional Office,
Sree Complex,
Madurai Road, P.B.No.588,
Trichirappalli – 620 008.



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