



W.P.(MD) No.12533 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.12533 of 2019
and
W.M.P.(MD) No.9337 of 2019

Thiruthangal Municipality
through its Commissioner
Thiruthangal
Virudhunagar District

... Petitioner

-vs-

1.The Assistant Provident Fund Commissioner
Employees Provident Fund Organization
Regional Office
Lady Doak College Road
Chokkikulam, Madurai-625 002

2.The Branch Manager
Tamil Nadu Grama Bank
Thiruthangal (5169) Branch
Virudhunagar District-626 130

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records of the impugned order of the first respondent in File No.MD/MDU/1838232/EnfB'/M-11/2019,



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dated 02.04.2019 and consequential impugned restrain order in No.RO/MD/MDU/1838232/ENFB/W-11/BF/2019, dated 07.05.2019, issued by the first respondent to the second respondent and quash the same as illegal, devoid of merits and unlawful and consequently directing the first respondent to conduct a proper enquiry by giving sufficient opportunity to the petitioner.

For Petitioner : Mr.R.Senthil Prabhakar

For Respondents : Mr.A.John Xavier for R1
Mr.M.Thirunavukkarasu for R2

ORDER

This writ petition has been filed by the petitioner challenging the order of the first respondent in File No.MD/MDU/1838232/EnfB'/M-11/2019, dated 02.04.2019 and the consequential order in No.RO/MD/MDU/1838232/ENFB/W-11/BF/2019, dated 07.05.2019, issued by the first respondent to the second respondent and to direct the first respondent to conduct a proper enquiry by giving sufficient opportunity to the petitioner.



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2. Today, when the matter is taken up for consideration, learned counsel for the petitioner - Municipality sought liberty to the petitioner - Municipality to avail the appeal remedy as against the impugned order passed under Section 7A(1)(b) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (in short, "the Act, 1952") by filing an appeal under Section 7-I of the Act, 1952 before the Appellate Tribunal instead of adjudicating the present writ petition on merits.

3. However, Mr.A.John Xavier, learned counsel appearing for the first respondent - Employees Provident Fund Organisation, submitted that the entire amount payable by the petitioner - Municipality under the impugned order dated 02.04.2019 has already been recovered under Section 8F of the Act, 1952.

4. Be that as it may, as the petitioner - Municipality has already approached this Court as early as in the year 2019 aggrieved by the order dated 02.04.2019, passed by the first respondent under Section 7A(1)(b) of the Act, 1952 and now, the petitioner - Municipality is intending to go before the Appellate Tribunal, this Court does not see any reason to deprive the petitioner of remedy of appeal available under the statute.



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5. In the light of the above, this writ petition is disposed of granting liberty to the petitioner - Municipality to avail the remedy of appeal, as provided under Section 7-I of the Act, 1952, against the impugned order, passed by the first respondent, in File No.MD/MDU/1838232/Enf'B'/M-11/2019, dated 02.04.2019, within a period of four weeks from the date of receipt of a copy of this order. In case any appeal is filed by the petitioner - Municipality within the time stipulated herein above, the same shall be entertained by the Appellate Tribunal, without any reference to the period of limitation and dispose of the same on merits and in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

26.02.2025

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

Note to Office:

Return the original impugned order, passed by the first respondent, in File No.MD/MDU/1838232/Enf'B'/M-11/2019, dated 02.04.2019, to the learned counsel for the petitioner, after obtaining due acknowledgement and retaining a copy of the same in the bundle.

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