



WP(MD)No.25251 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 24.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.25251 of 2019
and
WMP(MD)No.21839 of 2019

The Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
P.B.No.588, Sree Complex, 'D' Block,
No.18, Madurai Road,
Tiruchirappalli.

: Petitioner

Vs.

M/s.Vivekanand Matric Higher Secondary School,
Thenpathi,
Sirkazhi - 609 111,
Nagapattinam District.

: Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari to call for the records relating the order passed by the Employees Provident Fund Appellate Tribunal, New Delhi, in ATA.No.527 (13) 2014, dated 20.11.2014 and quash the same.



WEB COPY



WP(MD)No.25251 of 2019

For Petitioner : Mr.N.Dilipkumar

For Respondent : Mr.Pethu Rajesh

ORDER

The respondent School is an establishment covered under the Employees Provident Fund Act (in short 'EPF Act'). The Area Enforcement Officer of the PF Department inspected the respondent School and submitted a report stating that the School had not remitted the Provident Fund contribution in a proper manner, and that the contribution had been calculated only on the basic salary, excluding the allowances.

2. Based on the said report, the petitioner initiated proceedings under Section 7A of the EPF Act, and passed an order determining the contribution payable by the respondent School at Rs.42,99,074/-. The said order dated 26.05.2014 passed under Section 7A was challenged by the respondent School before the Employees' Provident Fund Appellate Tribunal, New Delhi, in ATA No.527(13)2014. The Appellate Tribunal, by



WP(MD)No.25251 of 2019

order dated 20.11.2014, allowed the appeal on the ground that the Authority had not considered the objections raised by the Establishment, thereby violating the principles of natural justice. The Tribunal further held that the Authority had not passed a reasoned order and that the enforcement officer's report did not identify the beneficiaries. Aggrieved over the same, the petitioner / PF Authority has filed this writ petition.

3.Learned Counsel for the respondent School raised a preliminary objection as to maintainability, contending that the writ petitioner, being a quasi-judicial authority under Section 7A of the Act, cannot challenge the order of the Appellate Tribunal.

4.However, this very issue has been settled by this Court in a decision rendered by Hon'ble Mr. Justice K.Chandru in *Assistant Provident Fund Commissioner and Others v. Employees Provident Fund Appellate Tribunal and Others* [W.P.Nos.17518 of 2004 etc. batch, dated 21.06.2011], wherein it was held that the challenge by the Authorities to the order of the Tribunal cannot be rejected on the ground of want of jurisdiction. The



Court held that the Provident Fund Authorities play multifarious roles under the provisions of the EPF Act, including investigation, enforcement, quasi-judicial determination, prosecution of erring employers, and securing the rights of workmen. The relevant portion of the said judgment reads as under:-

“16.Taking note of the first objection by the employer regarding the maintainability of the writ petitions, this Court is of the view that the writ petitions cannot be rejected on the ground of locus standi of the APFC. Taking note of the peculiar position that the PF authorities are to play under the PF Act, the challenge by the authorities of the order of the Tribunal cannot be rejected on the ground of want of jurisdiction. It must be noted that the authorities are playing multifarious role under the provisions of the PF Act including investigation, enforcement, quasi judicial determination of the rights of the parties, prosecution of the erring employers as well as securing the rights of workmen, who also contribute PF subscriptions.”

5.Likewise, a Division Bench of this Court, in ***Regional Provident Fund Commissioner v. M/s.Prabha Beverages Pvt Ltd and Another*** [W.A.No.715 of 2010, dated 12.07.2011], rejected a similar plea and held



that, if such objection were to be accepted, then in every case where the order of the original authority is reversed in appeal, the order would necessarily become final without any further challenge. Hence, such contention cannot be sustained.

6.Turning to the merits of the case, the Tribunal allowed the appeal primarily on the ground that the objections of the respondent School dated 24.02.2014 were not considered and that the order under Section 7A was a non-speaking order. Both these findings cannot be accepted for more than one reason.

7.The records reveal that the Area Enforcement Officer inspected the establishment and submitted a detailed report dated 18.02.2014, which was furnished to the School. The School submitted its written objections on 24.02.2014. Thereafter, inquiry was conducted on several dates between July 2013 and April 2014, during which the School's representatives appeared and participated. The Authority, after considering both oral and written submissions, examined the wage registers, balance sheets, and



audit reports, and found that the establishment had maintained dual sets of wage registers and manipulated figures to evade Provident Fund liability.

8. (i) The relevant portions of the order dated 26.05.2014 read as under:-

“Area Enforcement Officer during his inspection detected that the Provident fund contribution has not been remitted to the fund as per the provisions of section 2(b) and the salary of the employees were bifurcated into various allowances and the contribution towards Provident fund has been calculated only for the basic salary leaving all the allowances. Whereas during the inquiry the representative appeared for the inquiry stoutly denied the allegations and submitted one wages register of the teaching staff and balance sheet. In the wages register submitted by the representative, the salary of the employees has been bifurcated as Basic, DA and HRA and the PF deductions were made for the basic and DA components. Whereas the enforcement officer in his report dated 17.1.2014 stated that the attendance / salary registers of the school shown a very meagre amount as wages / salary in the relevant registers which were produced before the Enforcement officer for inspection / verification only 30% of wages has been deducted for EPF and as per the income and expenditure statement for the year 2011-12 the following



salaries were allowed accordingly the difference is identified as subterfuge wages and submitted the report to the APFC (comp) and recommended for enquiry under Section 7A of the Act.

Teaching Staff	Rs.22,023,652/-
Teaching staff technical	Rs.2,086,634/-
Non-teaching staff	Rs.2,112,079/-
Staff Administration	Rs.2,383,832/-
Total	Rs.28,606,197/-

During the enquiry under section 7A of the Act, the school has produced another balance sheet for the year 2011-12 and salary furnished as follows:

Salary to Teaching staff	Rs.65,96,885/-
Non-Teaching staff	Rs.20,10,674/-
Total	Rs.92,69,904/-

Further the Enforcement Officer stated in his report that the school has produced another the wage register for the year 2011-12. On verification the wages pertain to the month of June and July 2011, some of the teachers have signed the registers and record the year as 2013 and it is evidently proved that the registers were prepared after initiating enquiry under section 7A of the Act.

This apparently implies that the school have maintained two registers of wages / salary with an ulterior motive of evading the liability of payment of Provident Fund in respect of their employees."



WEB COPY (ii) The Authority further recorded:-

“When the employer representative asked for clarification for these two different auditor reports of the same school for the same year, Sri.M.N.Rajan explained that they are objecting the report submitted by the enforcement officer dated 18.2.2014 by their letter dated 24th February 2014 which was addressed to the enforcement officer with a copy marked to the Assistant Provident Fund Commissioner.

The point before me to decide whether the establishment is remitting the dues to all their employees as per Section 2(b) of EPF & MP Act 1952.

The area Enforcement Officer submitted a report based on the books of accounts submitted by the establishment during his inspection and the balance sheet submitted to the enforcement officer is signed by the Auditor R.Rathina Sabapathy, B.com, FCA. Whereas the employer has submitted an Income and Expenditure statement for the same year signed by the same auditor Sri R.Rathina Sabapathy, B.Com, FCA during the time of inquiry and the expenses shown as staff wages are different from the records submitted by the enforcement officer. If so whether the school is maintaining two type of books of accounts for different government agencies? When the enforcement officer is submitted a report based on the books of accounts submitted to him by the school management at the time of his inspection how the school



management vide their letter dated 24th February stated that the report is not relevant to their books of Accounts? If so whether the enforcement officer prepared the Income and Expenditure Account of the School on his own from the School Auditor Sr. R.Rathinasabapathy. The contention of the Employer is not at all acceptable to the Inquiry authority. By having different set of Income and Expenditure account for the same year, the employer / establishment is cheating the government agencies. One set of books of accounts are prepared with low salary to employees so as to reduce the EPF contribution and another set of accounts with actual figures (?) to other government agencies / banks is not acceptable one. This action of the employer clearly shows his ulterior motive to reduce the burden of EPF contribution payable to the employees as well as the EPFO. Hence this inquiry authority decided to go with enforcement officer's report since the enforcement officer cannot prepare an income and expenditure statement on his own for the inspection of records of the School. Further the copy of salary registers submitted by the enforcement officer along with his report is having basic, DA and the following allowances."

... ..

"Interestingly it is noticed that the records submitted by the enforcement officer is not having the column of EPF No. whereas the records submitted by the employer is having such column in the wages record.



The inquiry authority verified the names of some of the employees whose names are found in both registers for the month of June 2012 and found they are drawing different salary for the same month and out of them five employees signatures are also found different between one register and the other. The employee's names and salary are furnished below:

S.No.	Name of the staff	Salary (Vide EO record)	Salary (Vide employer)	EPF No. (Vide Employer)
1	S.Vanathi	8420	4410	220
2	Yamuna R	4400	2450	266
3	Thamaraikanni	4020	1960	439
4	Saranya R	3770	1960	349 sign differs
5	Gayathri K	3770	2450	473
6	Subha R	1560 (After LOP – 2210)	1960	440 sign differ
7	Rathi R	3654	1960	350
8	Pratheepa P	3770	1960	355 sign differ
9	Kavitha N	3520	1960	354 sign differ
10	Saranya A	3520	1960	353 sign differ

From the above illustration it is proved beyond doubt that the employer with ulterior motive manipulated the records for his own benefit and shows lesser salary to EPF so as to reduce the burden of EPF contribution. As an Educational institution, which is teaching



discipline, ethics, morality and integrity to the students should follow the same principles for its own. Otherwise there is no use in creating such big Trust and part education to the general public. By creating false records with clear intention to cheat the EPFO, employer is at fault and it should be rectified."

(iii) The Authority concluded:-

"After considering the facts and records placed before me for the inquiry, I hereby come to a conclusion that the Establishment M/s.Vivekananda Matriculation Higher Secondary School, Sirkazhi, is keeping two type of wages records for the same employees with different type of wages. In order to conceal the allowances paid to the employees and the provident fund liabilities in connection with the so called allowances the establishment is keeping a separate wage registers without the allowances only to divert the EPFO and thereby they are utilising the statutory contribution of the poor employees for making their own benefit. For the very purpose they are utilising the service of the Auditor to manipulate the Income and Expenditure account of the Establishment which is bad in law. As the enforcement officer who laid his hands on the original records of the Establishment (because Enforcement officer has not ulterior motive to prepare a separate Balance Sheet from the School Auditor for his inspection) taking the records submitted by the employer before the Enforcement Officer, I hereby



WP(MD)No.25251 of 2019

direct the employer to remit the following dues by treating all the allowances except HRA as BASIC WAGES and determine the dues as per the schedule and order accordingly."

9. Accordingly, the Authority held that the establishment was maintaining dual wage records to conceal allowances and directed remittance of dues by treating all allowances except HRA as "basic wages" for the purpose of contribution.

10. These detailed findings demonstrate that the objections of the respondent School were duly considered and a reasoned order was passed. Hence, the conclusion of the Tribunal that there was violation of natural justice or absence of reasoning is without basis. The order of the Authority is well-reasoned and supported by records and evidence, as such, the order of the Appellate Tribunal dated 20.11.2014 is liable to be set aside. Accordingly, the order of the Tribunal dated 20.11.2014 is set aside, and the order passed by the Provident Fund Authority under Section 7A dated 26.05.2014 stands restored.



11.It is true that the Tribunal's order was passed in 2014, whereas the present writ petition came to be filed only on 26.11.2019, after a lapse of five years. Ordinarily, such delay and laches would constitute a valid ground to reject the writ petition. However, in the present case, the subject matter relates to the provident fund contributions of employees, and dismissal of the writ petition on the ground of delay would result in serious prejudice to their statutory rights. The Provident Fund Authorities, being custodians of employees' contributions, are under a bounden duty to ensure that the funds are duly secured and credited to the workmen. Hence, this Court is inclined to condone the delay, though not without consequences.

12.The Provident Fund Organisation is well equipped with a full-fledged legal wing and adequate administrative infrastructure. Whenever an employer delays remittance of contributions, the Authorities impose damages under Section 14-B of the EPF Act read with Paragraph 32-A of the EPF Scheme. The same principle of accountability must apply to the Authorities themselves when there is delay in pursuing legal remedies.



WP(MD)No.25251 of 2019

WEB COPY

13. Accordingly, while allowing this writ petition, this Court imposes costs of Rs.1,00,000/- (Rupees One Lakh only) on the petitioner-Provident Fund Authority for the inordinate delay in filing the petition. The said sum shall be paid from the funds of the Department and recovered from the officers responsible for the delay. The amount so recovered shall be remitted along with the dues recovered from the employer and disbursed to the eligible employees.

Consequently, connected miscellaneous petition is closed.

Internet : Yes
gk

24.11.2025



WEB COPY



WP(MD)No.25251 of 2019

B.PUGALENDHI, J.

gk

WP(MD)No.25251 of 2019

24.11.2025