IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-03-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

WA No. 969 of 2024

The Commissioner
Maraimalai Nagar Municipality,
Maraimalai Nagar, Chennai 603209.

..Appellant(s)

Vs

The Regional Provident Fund Commissioner-I
Employees Provident Fund Organisation,
Regional Office, 3, Rajaji Salai, Tambaram,
Chennai 45.

..Respondent(s)

Writ Appeal filed under Clause 15 of the Letters Patent to against the order dated 03.11.2023 made in WP.No. 31400 of 2023.

For Appellant(s): Mr.R.Purushothaman

For Respondent(s): Mr.R.Thirunavakkarasu
Standing Counsel for EPF

JUDGMENT

(Judgment of the Court was delivered by S.M.Subramaniam J.)

This appeal has been preferred by the Commissioner, Maraimalai Nagar Municipality against the order of the learned Single Judge, dated 03.11.2023, dismissing the writ petition, whereby the learned Single Judge held that the Writ Petitioner failed to deposit 35% of the Award amount.

2. Mr.R.Purushothaman, learned counsel, appearing for the appellant would submit that the quantum of EPF has not been determined by Regional PF Commissioner and that the total number of employees is also under dispute. He would further submit that the entire PF amount has been taken based on the employee record and the amount has been determined by the authority and issued final order under Section 7 (A) of the Act.

3. Aggrieved over the decision of the Regional Provident Fund Commissioner-I/respondent, appeal was filed by the appellant herein before the Employees' Provident Fund Appellate Tribunal.

4. The Tribunal, after hearing the parties, passed a conditional order that the appeal would be entertained on deposit of 35% of the amount determined by the authority under Section 7 (A) of the Act.

5. Since the amount determined was not paid, the Tribunal dismissed the appeal on the ground of non-compliance of the conditional order.

6. Challenging the said order, Writ Petition was filed and the learned Single Judge, by an order, dated 03.11.2023, has dismissed W.P.Nos.31400 of 2023. The learned Single Judge held that the appeal filed before the Appellate Tribunal along with waiver petition mandated under Section 7(O) of the Act; though the said waiver petition was considered by the Tribunal

directing the writ petitioner/Municipality to deposit 35% of the Award amount, they did not comply with the order, therefore, the dismissal order passed by the Appellate Tribunal is perfectly in order.

7. The learned counsel appearing for the appellant would submit that the Municipality has already deposited the amount as per the order of the Tribunal.

8. Per contra, Mr.R.Thirunavukkarasu, learned counsel for the respondent EPFO, has drawn the attention of this Court to a decision of this Court in W.A.No.765 of 2023, dated 29.03.2023, and also another decision in W.A.No.370 of 2020, dated 10.07.2023, to contend that in view of non-compliance of the interim order passed by the Tribunal, the Tribunal was right in rejecting the appeal.

9. The learned counsel for EPFO would further submit that this Court has passed an order holding that it is the duty on the part of the Municipality to deposit the entire amount with the respondent EPFO and that any amount payable by the contractors can be recovered from the said contractors.

10. The learned counsel for the respondent-EPFO also drew the attention of this Court to the proceedings of Commissioner of Municipal Administration addressed to the Commissioners of Tiruchirapalli, Tambaram

and Avadi Municipal Corporations to the effect that the Corporations are to comply with the directions of the Court and that EPFO amount need to be paid periodically.

11. Heard both sides and perused the records.

12. The issue before this Court is, if the condition precedent, imposed in the order of waiver petition, is not complied with, whether the Tribunal is justified in dismissing the appeal. Though we agree with the contention of respondent-EPFO that the Tribunal is empowered to dismiss the appeal when there is non-compliance of the order, which is a condition precedent, in the appellate stage, the Municipality submitted that they have already deposited the amount, as ordered by the Tribunal i.e., Rs.4,66,91,673.00/-. Therefore, in the interest of justice, we are of the considered view that an opportunity could be given to the Municipality to raise their ground in respect of applicability of EPF Act, determination of amount etc.

13. It is a matter of records that an order has been passed by the Appellate Tribunal in Appeal No.257 of 2019, dismissing the appeal on 31.07.2023. Further, the interim order dated 11.05.2022 was passed by the Tribunal directing the appellant/Municipality to deposit 35% of the award amount. The respondent-authority determined the amount as early as on 30.10.2019 and now almost five years have gone by.

14. This amount of recovery is only an interim arrangement and without prejudice to the rights of both the parties before the Tribunal. We expect the Tribunal to take up the matter on day-day basis by not adjourning the matter beyond seven working days at any point of time and render a finding within six months from the date of receipt of this order. We also expect the appellant Municipality to depute an exclusive person, who is well versed with the subject, to assist the Court/Tribunal and cooperate with the Tribunal to take a decision within the time stipulated supra. It is open for the parties to avail all legal and factual pleas available to them before the Tribunal, including locus.

15. Writ Appeal is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions, if any, are closed.

(S.M.S.,J.)   (K.B.,J.)
30-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

GD

To
The Regional Provident Fund Commissioner-I
Employees Provident Fund Organisation,
Regional Office, 3, Rajaji Salai, Tambaram,
Chennai 45.

S.M.SUBRAMANIAM, J.
AND
K.KUMARESH BABU, J.

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