



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-01-2026

CORAM

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No. 25653 of 2021
& W.M.P.No.27710 of 2021

Lakshmi Electrical Drives Corporate Services LLP,
No.16, GKD Nagar,
Pappanaickenpalayam,
Coimbatore – 641 037.
Represented by its Partner. ... Petitioner

Vs.

1. Government of India,
Rep by the Secretary,
Ministry of Labour and Employment,
Shram Shakti Bhawan, Rafi Marg,
New Delhi - 110001.

2.The Central Provident Fund Commissioner
Employees Provident Fund Organisation,
ABRY Team, EPFO Head Office,
Bhavishya Nidhi Bhavan,
14, Bhikaiji Cama Place,
New Delhi - 110066.

3.The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
Bhavishyanidhi Bhavan,
Dr.Balasundaram Road,
Coimbatore – 641018.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue Writ of Certiorarified Mandamus calling for the records of the 2nd respondent by its E.mail dated 22.10.2021 quash the same, direct the respondents 2 and 3 to extend the ABRY Scheme to the petitioner and refund/ adjust the excess contributions already paid as a result of denial of the ABRY



Scheme to the petitioner.

For Petitioner: Mr.G.Anand Gopalan,
for M/s.T.S.Gopalan and Co.,
For Respondents: Mr. A. Poornachandran ACGSC For R1
M/s.C.Kulanthaivel,
Standing Counsel, for R2 & R3 (E.P.F)

ORDER

This writ petition is filed for a certiorarified mandamus calling for the records on the file of the second respondent relating to the communication dated 22.10.2021 and to quash the same and direct the respondents 2 to 3 to extend the ABRY scheme to the petitioner and refund/adjust the excess contributions already paid as a result of denial of the ABRY scheme to the petitioner.

2. The case of the petitioner is that the petitioner is in the business of providing manpower services to various industries and firms within the State of Tamil Nadu. While so, in the year 2020, the Central Government framed the *Aatmanirbhar Bharat Rozgar Yojana 3.0, dated 31.12.2020*. As per the provisions of the said scheme, in order to give a relief to the stressed sectors in view of the COVID-19 pandemic, relief is granted for the employers who employ new employees after the month of September 2020 and for the period mentioned therein, the Provident Fund contributions of the employer will be



borne by the Central Government.

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3. The petitioner states that it opted under the said scheme and it had 502 employees as on September 2020 that is the base period and since it employed additional employees during the subsequent months and the E.C.R (Electronic Challan cum Return) is also filed in respect of the new employees. The petitioner claimed the benefits of the contributions accordingly. A calculation of the contribution claimed by the petitioner to the tune of Rs.29,79,287/- is furnished in the typed set of papers in page no.21. As a matter of fact, it is the case of the petitioner that in respect of one month alone i.e., for the month of December 2020, in January 2021, the petitioner received a sum of Rs.3,74,440/-, but thereafter the benefit was stopped, leaving a deficit of Rs.26,04,847/-. The petitioner therefore claimed the said amount, to which the impugned order is passed.

4. As per the impugned order, it was stated that, as contained in Clause 5 of the scheme, the petitioner did not file the E.C.R on or before 15.12.2020 and therefore, since the petitioner has been changing the baseline i.e., the number of employee as on September 2020, the petitioner became disentitled to avail the benefit under the scheme and therefore, the petitioner cannot be granted the benefits under the scheme. The entire Clause 5 is also extracted in the impugned



order.

5. Challenging the same, the writ petition is filed. The writ petition is resisted by the respondents by filing a counter affidavit. In the counter affidavit, apart from the said reason of violation of Clause 5, yet another reason of violation of Clause 9 (v) is also mentioned in the counter affidavit. It is also further stated that Clause 6(3) is also violated. It is further stated in the counter affidavit that the entire scheme is administered through software and is system-driven and, therefore, for the variations or omissions committed by any particular employer, the scheme itself cannot be varied and once the system did not intake the petitioner's claim, there ends the matter and the petitioner cannot subsequently claim the benefits.

6. A reply affidavit was filed to the counter affidavit. It is stated that the petitioner has been complying with Clause 9(v) inasmuch as the petitioner has filed the E.C.R well within the time. The other allegations were also denied. Subsequently, a rejoinder affidavit to the reply affidavit is also filed by the respondents, once again reiterating the violations.

7. Mr.Anand Gopalan, Learned Counsel appearing on behalf of the petitioner would submit that firstly, as on September 2020, the petitioner



institution had 502 employees. In respect of two employees, there were discrepancies between the Aadhaar and the name as mentioned in the P.F account and therefore, there was difficulty in generating the UIN. When the Unique Identity Number was generated belatedly, the same would only work to the disadvantage of the petitioner's Company. If the two employees were additionally not mentioned, that would not, in *toto* disentitle the petitioner. Similarly, with reference to the other allegation, even if the E.C.R in respect of the new employees is not filed in one go within time, Clause 9(v) only disentitles the additional benefits in respect of the additional E.C.R filed. In the instant case, the petitioner's case has been rejected in total.

8. The Learned Counsel would submit that on a complete reading of the scheme, the petitioner has not violated any of the provisions and therefore, the respondents erred in not granting the benefits under the scheme. With reference to the averments from the month of March 2021, the Learned Counsel would submit that it can be seen that after paying one instalment in the month of January, they have stopped the payments from February onwards and therefore, the new allegations that is now made with reference to the month of March 2021 etc., (i) was not considered while stopping the payments, (ii) are factually erroneous and (iii) in any event, stopping of the entire benefit is violative of Clause 9 of the scheme.



9. Per contra, Mr.C.Kulanthaivel, Learned Counsel appearing on behalf of the respondents 2 & 3 would submit that this is a beneficial scheme that is floated by the Central Government. In order to avail the benefits, the petitioner concerned should comply with all the provisions of the scheme. Under Clause 5 of the scheme, the base reference shall be taken in the month of September, if only the base is properly ascertained, the number of new employees who joined the institution thereafter can properly be ascertained and their contributions can be subsidised by the Government. If that base is not properly maintained by the petitioner, he should be held to be disentitled. As a matter of fact, 60 days grace time is also granted by the scheme and even by 15.12.2020, the petitioner did not file the E.C.R and finalise the issue and therefore for violation of Clause 5(2), the petitioner became disentitled. This apart, it can also be seen that Clause 6 of the scheme, in Sub-Clause 3, categorically states that the establishment must continue to retain the number of employees which will be taken as the base employees and the subsidy will given only for the additional new employment. With the state of affairs that of the petitioner's case, such clause cannot be implemented and therefore, the system has rightly rejected the case. Further, even with reference to the new employees, the establishment is mandated under Clause 9(v), to file a single Electronic Challan cum Return (ECR), in the case of the petitioner, multiple Electronic Challan cum Return were filed. Therefore, the petitioner's case cannot be accepted. Even though a



reply affidavit is filed, it was once again refuted by the authorities, reiterating the violations in the rejoinder affidavit that was filed and therefore the petitioner is not entitled for the benefit.

10. I have considered the rival submissions made on either side and perused the material records of the case.

11. It can be seen that by the Official Memorandum, dated 31.12.2020, the scheme guidelines for implementation of *Aatmanirbhar Bharat Rozgar Yojana 3.0* (ABRY) to incentivise the creation of new employment opportunity in EPFO registered establishments were issued. The scheme guidelines are complete and comprehensive in nature. The objectives of the scheme is contained in Clause 2 and the validity of the scheme period is mentioned in Clause 3 from 1st October 2020 upto 31.06.2020. The definitions for the purposes of the scheme, including the definitions of Electronic Challan cum Return and the 'new employee', are contained in Clause 4 of the scheme. As per the definition of a 'new employee', an employee must be drawing wages less than Rs.15,000/- per month and who was not working in any establishment and did not have a Universal Account Number prior to 01.10.2020 who joins employment in any establishment on or after 01.10.2020 upto 30.06.2021 and who is allotted Aadhaar validated UAN. The other definitions are also given.



12. Clause 5 refers to the Reference base of the employees. In order to ascertain about the number of new employees, the scheme rightly takes the wage month of September 2020 as the base of the employees. It further mandates in Clause 5(2) that for the wage month of September 2020, the E.C.R should have been filed in time i.e., on or before 15.10.2020. Even if the E.C.R is not filed in time, another grace period of 60 days is given and any E.C.R if it is comprehensively and completely filed on or before 15.12.2020 will be taken as valid and the base number of employees will be calculated as per the month of September 2020. It is further to be seen that if the employees did not file the reference base on 15.12.2020 then the E.C.R which was filed up to 11.11.2020 will only be taken. If such an E.C.R is not filed within 15.12.2020, the scheme itself states that the number of employees as per the last E.C.R which was filed up to 11.11.2020, whichever higher, will be taken. Therefore, Clause 6 mentions about the *Eligibility Criteria for the Establishments*. Clause 8 mentions about the *Amount of Benefit* and Clause 9 contains the *Procedure and Instructions for availing the benefits under this scheme*. Thus, a combined reading of the scheme, firstly shows that the baseline will be taken as the month of September 2020 as the benefits have to be given from the month of October 2020 onwards. If the employee has not filed the returns of everyone within the usual date of 15.10.2020, another two months grace period is also granted so that the employers can bring in all the other additional employees who have been left



out from the month of September. If that is not done, this scheme does not reject the employer in *toto*, but only provides for the alternative that the E.C.R that is filed upto 11.11.2020 will be taken and whichever is higher will be reckoned.

13. Therefore, as rightly contended by the Learned Counsel for the petitioner, firstly, by virtue of Clause 5(2), there is no exclusion for not filing the return in respect of two employees on or before 15.12.2020 and secondly, it will only work towards the disadvantage of the employer. Admittedly, the two employees were working even as on September 2020 and they will not be taken into account for the purpose of grant of benefit by the Government. Admittedly only the employees who have been newly employed and a new UAN which is created for the purpose of employment after September 2020 alone will be taken into account for the purpose of grant of benefit. A reading of Clause 9(v) also is very clear that the Establishments shall file a single E.C.R in respect of the new employees. Even if the establishment fails and files multiple E.C.Rs even then, Clause 9(v) itself contains the default Clause that revision or modification of the E.C.R will not be allowed and no enhanced benefits will be granted. Therefore, only the first E.C.R will be taken into account and the additional employees, if any, will only be disallowed. Clause 9(v) also does not result in total disentitlement of the establishment itself. Similarly, Clause 6 mandates that in



addition to maintain the number of additional new employees, the establishment must continue to retain the number of employees taken as the reference base for employees for availing the assistance. Therefore, the employees, who are in employment with the petitioner as of the month of September 2020 should be continued and if there is a reduction in strength to that level, again they will be disentitled. This again will not disentitle the petitioner *in toto*.

14. Therefore, for all the aforesaid reasons, the impugned order cannot be sustained. The matter is hereby remitted back to the respondents to consider the claim of the petitioner in the light of the observations made above and to pass orders afresh. If the petitioner is found entitled to as per the scheme, the payment shall be released to the petitioner.

15. In view thereof, this writ petition is allowed on the following terms:

(i) The impugned order dated 22.10.2021 shall stand set aside and the matter is remitted back to the 2nd respondent;

(ii) The 2nd respondent shall consider the case of the petitioner *dehors* the fact that in respect of two employees, the registration was made belatedly after 15.12.2010 and include those two employees as the base for the purpose of calculation for the month of September 2020;



(iii) In respect of the new employees for whom the UANs was newly generated, subject to verification of the maintenance of the same strength as in September 2020 shall recalculate and arrive at the benefits, if any, to be paid to the petitioner's establishment and pass fresh orders;

(iv) The said exercise shall be completed within a period of three months from the date of receipt of the web copy of the order. The petitioner shall also be heard in the said process.

(v) There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

06-01-2026

Neutral Citation: Yes.

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To,

1. The Secretary,
Government of India,
Ministry of Labour and Employment,
Shram Shakti Bhawan, Rafi Marg,
New Delhi - 110001.

2. The Central Provident Fund Commissioner,
Employees Provident Fund Organisation,
ABRY Team, EPFO Head Office,
Bhavishya Nidhi Bhavan,
14, Bhikaiji Cama Place,
New Delhi - 110066.



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3. The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
Bhavishyanidhi Bhavan, Dr. Balasundaram Road,
Coimbatore - 641018.



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D.BHARATHA CHAKRAVARTHY, J.
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