



W.P(MD)Nos.2116 and 10136 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.06.2026

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)Nos.2116 and 10136 of 2022

and

WMP (MD) No.7193 of 2022

WP (MD) No.2116 of 2022

The Assistant Provident Fund Commissioner
Employees Provident Fund Organisation
Regional Office No.1,
Lady Doak College Road,
Chokkikulam
Madurai.

... Petitioner(s)

vs.

1. M/s.Dd-550 Muthanampatti Primary
Agricultural Co-Operative Society,
Palam Rajakkapatty,
Pallanampatti Post,
Dindigul.

2.The Presiding Officer
Employee's Provident Fund Appellate Tribunal
CGIT Cum Labour Court,
Chennai – 600 006.

... Respondent(s)



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari or any other writ or order or direction of a like nature, calling for the records pertaining to the impugned order of the 2nd Respondent i.e., C.G.I.T. cum EPF Appellate Tribunal, Chennai in EPFA 314/2017 ATA No.846(13)/2011 dated 26.08.2021 and quash the same by confirming the order passed by the Assistant Provident Fund Commissioner, Madurai under Sec.14B of the Employee's Provident Fund and Miscellaneous Provisions Act, 1952 in his vide proceedings No.TN/RO/MDO/37902/RO/Circle15/PDC/LD/2011 dated 12.08.2011.

For Petitioner : Mr.A.John Xavier

For R1 : Mr.V.O.S.Kalaiselvam

For R2 : Ms.K.Shivashankari, Standing Counsel

WP (MD) No.10136 of 2022

M/s.Dd-550 Muthanampatti Primary
Agricultural Co-Operative Society,
Palam Rajakkapatty,
Pallanampatti Post,
Dindigul.

... Petitioner(s)

vs.

The Assistant Provident Fund Commissioner
Employees Provident Fund Organisation
Regional Office No.1,
Lady Doak College Road,

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WEB CHOKKIKULAM
MADURAI.

... Respondent(s)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari or any other appropriate Writ, order or direction against the order of the EPF Appellate Tribunal passed in EPFA No. 314/2017 dated 26.08.2021 in the nature of writ calling for the records on the file of the EPF Appellate Tribunal and quash the same.

For Petitioner : Mr.V.O.S.Kalaiselvam

For R1 : Mr.A.John Xavier

COMMON ORDER

Since the issue involved in both the writ petitions is one and the same, they were heard together and are being disposed of by this common order.

2. These writ petitions have been filed challenging the order dated 26.08.2021 passed by the Appellate Tribunal. W.P.(MD) No.10136 of 2022 has been filed by the Muthanampatti Primary Agricultural Cooperative Society (hereinafter referred to as "the Cooperative Society"), and W.P.(MD) No.16442 of 2022 has been filed by the Assistant Provident Fund Commissioner (hereinafter referred to as "the Assistant PF Commissioner").

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3.The petitioner in W.P.(MD) No.10136 of 2022 is a Cooperative Society established under the provisions of the Tamil Nadu Cooperative Societies Act for providing agricultural loans to local farmers. According to the petitioner, due to high establishment expenses and poor recovery of loan amounts, the Society suffered continuous accumulated losses during the period from 2002 to 2009. Despite severe financial constraints and its inability to pay wages to its employees, the Society continued to remit the statutory provident fund contributions. However, there was a delay in remittance of contributions for the period from April 2003 to October 2010 (except from December 2005 to May 2006), which, according to the petitioner, was neither wilful nor deliberate but was occasioned by the mitigating circumstances. However, the Provident Fund Authority initiated proceedings under Sections 14B and 7Q of the “Employees' Provident Funds and Miscellaneous Provisions Act, 1952” (for brevity, hereinafter referred to as “the Act”) and by order dated 12.08.2011 levied damages under Section 14B. The petitioner paid the interest determined under Section 7Q in installments. Aggrieved by the levy of 100% damages under Section 14B fixed by the Provident Fund Authority, the petitioner Cooperative Society preferred an appeal before the Appellate Tribunal.



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4. The Appellate Tribunal, by order dated 26.08.2021 in ATA No.846 of 2011, partly allowed the appeal and reduced the damages from 100% to 50%, in respect of the amount of Rs.2,98,743/-. Aggrieved by the said order, both the Cooperative Society and the Assistant PF Commissioner have filed the present writ petitions.

5. The learned Standing Counsel appearing for the Assistant PF Commissioner submitted that the Appellate Tribunal erred in reducing the damages to 50% in the absence of any material establishing the alleged financial difficulties suffered by the Cooperative Society. It was contended that no documentary evidence was produced before the Appellate Tribunal to substantiate the plea of financial hardship and therefore, the reduction of damages under Section 14B was unsustainable. It was further submitted that the Assistant Provident Fund Commissioner, being the statutory authority entrusted with the implementation of the Act, is duty-bound to protect the interests of the employees and is, therefore, entitled to maintain the writ petition challenging the order of the Appellate Tribunal. Accordingly, it was prayed that the writ petition filed by the Cooperative Society be dismissed.



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6. Per contra, the learned counsel appearing for the Cooperative Society submitted that the Society had preferred an appeal in ATA No.846 of 2011 challenging the order dated 12.08.2011 passed under Section 14B of the Act imposing damages of Rs.2,98,743/-. Taking note of the severe financial hardship faced by the Society, the Appellate Tribunal rightly reduced the damages to 50%. It was further submitted that the delay in remittance of provident fund contributions was not intentional but was solely on account of the mitigating circumstances suffered by the Society. Though the Society had sought complete waiver of damages, the Appellate Tribunal granted only partial relief. It was therefore contended that this Court may further reduce or waive the damages in view of the mitigating circumstances.

7. Heard the learned counsel appearing for the Cooperative Society and the learned Standing Counsel appearing on behalf of the Assistant PF Commissioner and also perused the materials available on record.



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8. With regard to the maintainability of W.P.(MD) No.2116 of 2022 filed by the Assistant PF Commissioner, the learned counsel appearing for the Cooperative Society submitted that the Assistant PF Commissioner is not an aggrieved person and merely represents the Provident Fund Organisation. The original adjudicating authority cannot challenge the appellate order passed by the Appellate Tribunal before this Court, which is non est in law.

9. In support of the aforesaid contention, the learned counsel appearing for the Cooperative Society placed reliance on the order of this Court dated 04.08.2023 passed in the batch of cases in W.P. No.26413 of 2017, etc., wherein, this Court held as follows:

“25. A conjoint reading of Sections 7-I and 7-L shows that an appeal to the Tribunal could be filed only by the person aggrieved by the order of the authority or the Central Government and it cannot be by an authority, even higher in hierarchy to the authority, who had passed the order in the absence of any authorisation by the Central Government. Further, for the purpose of determination of moneys to be recovered, the inquiry by the authority is deemed to be a judicial proceeding as is passed by a civil court. In effect, the order passed by



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26. Further, as evidenced above, sub-section (4) of Section 7-L makes the order passed by the Tribunal a finality, which could not be questioned in any court of law. True it is that the order of the Tribunal can be put in issue before this Court under Article 226 of the Constitution, as this Court exercises extraordinary jurisdiction. However, the only interpretation that could be given harmoniously to sub-section (4) of Section 7-L is that the authority, who had passed the order, being an authority lower in hierarchy to the Tribunal, is bound to accept the order passed by the Tribunal and is estopped from questioning the said order by filing appeal, except where the order passed is without jurisdiction and that too only if the authority has proper authorisation from the Central Government.

27. However, the other party to the lis, viz., the individual, cannot be estopped from taking the same on appeal before a higher judicial forum. Meaning thereby, the order passed by the Tribunal in an appeal by the employer, could at best be challenged only by the employer, if it is against the employer and the authority, who passed



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the original order is bound to act on the basis of the order passed by the Tribunal as the Tribunal is the final arbiter under the statute insofar as the authority is concerned. Further, it should be pointed out that the order passed by the original authority merges with the appellate order and the original authority is bound by the order passed by the appellate authority. Any other construction, if given to Section 7-L (4) would render the appeal remedy an empty formality as every time, the order of the original authority is interfered with by the appellate authority, the original authority, if permitted to rush before the higher judicial forum, including the High Court under Art. 226, then it would defeat the very intent of the Parliament in including Section 7-L (4). Only to put a stop to further litigative process, more specifically by the original authority, sub-section (4) to Section 7-L had put shackles on the original authority by making the order passed by the Tribunal a finality. The order could be challenged by the authority by way of a writ petition only when the authority is clothed with authorisation by the Central Government or Board of Trustee to prefer appeal against the order passed by the appellate authority. In the absence of any power granted by the Central Government or Board of



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WEB COPY *Trustee to the authority to file appeal assailing the order passed by the appellate authority, not only the original authority is barred from filing a writ petition, but any writ petition, if entertained would be against the statute, which is not the intent of the law makers. Further, it is to be pointed out that the only situation in which the original authority could put in issue an order in appeal is when the authority who had passed the order is not vested with jurisdiction. In all other scenarios, the original order merges with the appellate order and the appellate order becomes final and the original authority is bound by the order of the appellate authority..*

28. It is to be pointed out that when an authority performs quasi-judicial function, by passing orders in a matter, it neither acts in favour of the Government nor the individual, but is performing a duty endowed on it by the statute. The authority is immune from all attachments and realisations for and on behalf of the Government and is in no way attached with the order, as it is only the statutory prescription that is sought to be enforced by the authority and it has no personal afflictions to the said issue. In case, the order passed by the authority is not in favour of the department, at best the department,



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WEB COPY upon proper authorisation from the Government could seek further judicial recourse but it is not open to the original authority who passed the order, without any authorisation, to challenge the order passed by the Tribunal.

29. The above view expressed by this Court finds favour in the decision of the Apex Court in *Mohtesham Mohd. Ismail case (supra)*, which clearly portrays the position in which the original authority is positioned when it comes to questioning the appellate order as has happened in the present case. For better appreciation, the relevant portion of the decision is quoted hereunder :-

“15. From the notification dated 22.09.1989, whereupon reliance has been placed by Mr. Bhan, it would appear that the officer authorized by the Central Government for the purpose of enforcing the provisions of the Act was specifically empowered to adjudicate upon the dispute. The said notification itself is a pointer to the fact that for the purpose of exercising the functions of the Central Government under one provision or the other, the officer concerned must be specifically empowered in that behalf. A general empowerment would, however, be permissible. Before the High Court, no notification was



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16. An adjudicating authority exercises a quasijudicial power and discharges judicial functions. When its order had been set aside by the Board, ordinarily in absence of any power to prefer an appeal, it could not do so. The reasonings of the High Court that he had general power, in our opinion, is fallacious. For the purpose of exercising the functions of the Central Government, the officer concerned must be specifically authorized. Only when an officer is so specifically authorized, he can act on behalf of the Central Government and not otherwise. Only because an officer has been appointed for the purpose of acting in terms of the provisions of the Act, the same would not by itself entitle to an officer to discharge all or any of the functions of the Central Government. Even ordinarily a quasi-judicial authority can not prefer an appeal being aggrieved by and dissatisfied with the



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17. The Madras High Court in Rama Arangannal (supra) opined :

“4. On the question as to the maintainability of the appeal, it is seen that the Explanation to Section 54 of the Foreign Exchange Regulation Act 1973 treats only the Central Government as an aggrieved party for the purpose of filing an appeal to the High Court in respect of orders passed by the Foreign Exchange Regulation Appellate Board under that section. Therefore, only the Central Government can file and prosecute an appeal against the order of the Appellate Board, and not any other authority, In this case, the appeal has been filed by the Director of Enforcement,



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who is the initial authority who passed the adjudication order against the respondents and whose order has been set aside by the Appellate Board on an appeal filed by them. Therefore, the Director of Enforcement cannot be said to be aggrieved by the order of the Appellate Board merely because its order of adjudication has been set aside by the Appellate Board.”

(Emphasis Supplied)

31. When the appellate authority, in unequivocal terms, has rendered a categorical finding that the findings arrived at by the original authority, which are on the basis of facts, are erroneous, it does not lie in the mouth of the petitioner to contend that the act of the employer in tampering with the basic wages to their benefit is a question of law, which has to be gone into by this Court, is nothing but trying to split hairs in order passed by the appellate authority. When the appellate authority has clearly spelt out that the Act clearly defines basic wages and so long as the language of the enactment is without



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any ambiguity, the definition provided to any term therein has to be interpreted plainly and, therefore, original authority is bound by the language of the enactment and cannot borrow the language from any other enactment to suit its taste is a clear exposition of the ratio, which has been laid down time immemorial in respect of the manner in which a statute has to be understood and in the said context, this Court is of the considered view that the decision arrived at by the appellate authority, on the basis of the facts placed before it, cannot be the basis for this Court to entertain the writ petitions, more so, when the petitioner has no authorisation to act on behalf of the Central Government by filing the present petitions.

32. When the petitioner has no authorisation to file the writ petitions on behalf of the Central Government or Board of Trustee, challenge made to the order of the appellate authority by filing the writ petitions is an act without jurisdiction of the authority and, therefore, the writ petitions deserve to be dismissed by confirming the order passed by the Tribunal.”

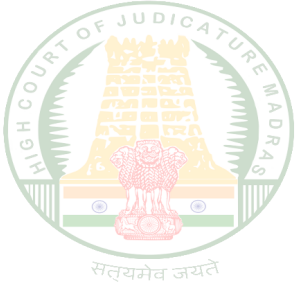


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10. Admittedly, the aforesaid decision is squarely applicable to the facts of the present case. Accordingly, applying the ratio laid down above, the writ petition in WP(MD) No. 2116 of 2022 stands dismissed.

11.Insofar as the writ petition in W.P.(MD) No.10136 of 2022 is concerned, the Cooperative Society is under liquidation. The said Society was established for the purpose of providing benefits to farmers and other members of the Cooperative Society. Cooperative Societies are not run with a profit motive, unlike private enterprises. Therefore, the benefits applicable to other establishments that operate solely for profit cannot be applied to Cooperative Societies by adopting the same yardstick. Cooperative Societies must be treated differently. The Cooperative Society established before the Appellate Tribunal that it is under liquidation and that even a reduction of 50% in the damages would not be financially feasible for it to pay. A similar issue has already been dealt with by this Court in ***Ramanathapuram District Cooperative Spinning Mills Ltd. v. Central Board of Trustees of EPF Organisation***, in a batch of writ appeals in W.A.(MD) No.228 of 2011, by judgment dated 11.03.2014.



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12. Therefore, for the aforesaid reasons, the impugned order is set aside and the damages levied under Section 14B of the Act upon the petitioner Cooperative Society is reduced to 25% of the ordered amount. Accordingly, the writ petition in W.P.(MD) No.10136 of 2022 is partly allowed. No costs. Consequently, the connected miscellaneous petition is closed.

29.06.2026

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

To

The Assistant Provident Fund Commissioner
Employees Provident Fund Organisation
Regional Office No.1,
Lady Doak College Road,
Chokkikulam
Madurai.

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M.DHANDAPANI,J.

PKN

**ORDER MADE IN
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DATED : 29.06.2026