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W.P. No.1239 of 2020 batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

RESERVED ON	17.02.2025, 20.02.2025 & 04.03.2025
PRONOUNCED ON	032025

PRESENT:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P.Nos. 1239, 2343, 2359, 2362, 2364, 2366, 3503, 3978,
4589,4615, 4944, 10934, 10946, 10948, 16302,
18099 of 2020 along with
W.M.P.No. 4095, 4720, 5445, 5474, 5850, 13290, 13309,
13312, 20399 of 2020

The Central Board of Trustees,
Employees Provident Fund,
Represented by the Assistant Provident
Fund Commissioner,

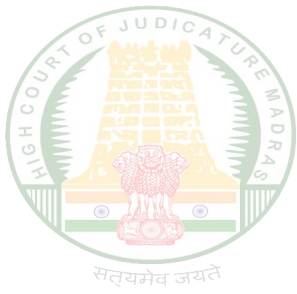
Bhavishyanidhi Bhawan, P.B.No.3875,
Dr.Balasundaram Road,
Coimbatore – 641 018.

...Petitioner in W.P.Nos.1239 &
2359 of 2020

The Central Board of Trustees,
Employees Provident Fund,
Represented by the Regional Provident
Fund Commissioner-II,

Bhavishyanidhi Bhawan, P.B.No.3875,
Dr.Balasundaram Road,
Coimbatore – 641 018.

...Petitioner in W.P.No.2343,
2362, 2364, 2366, 16302 of 2020



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The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation
Sub-Regional Office, S J Plaza,
Swarnapuri, Salem – 636 004. ...Petitioner in W.P.No.3978, 4615,
10934 of 2020

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Sub-Regional Office, S J Plaza,
Swarnapuri, Salem – 636 004. ...Petitioner in W.P.No.3503,4589,
4944, 10946,10948 of 2020

M/s. The Krishnagiri District Co-operative
Spinning Mills Ltd., S.A.108,
Rep. by its Managing Director,
Mr.K.Munusamy,
Uthangarai – 635 207,
Krishnagiri ...Petitioner in W.P.No.18099 of 2020

Vs.

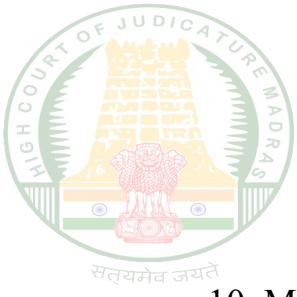
1. Teknoturf Info Services Pvt. Ltd
KRV Towers, 126, Sengupta Street,
Ram Nagar,
Coimbatore – 641 009Respondent in W.P.No.1239 of 2020
2. M/s. Mirth Garments Pvt. Ltd,
Mirth House, 392/2-F, Sri Nagar,
Pichampalayam,
Tiruppur – 641 603.Respondent in W.P.No.2343 of 2020
3. M/s.Vangal Amman Health Service Ltd
522, Udayampalayam Road,
Nava India, Sowripalayam,



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- Coimbatore – 641 028. ...Respondent in W.P.No.2359 of 2020
4. M/s. AA Fashion Wear,
1st and 2nd Floor, 234/2, 3, Thaimugambigai,
Sirupuluvaipatti,
Tirupur – 641 603. ...Respondent in W.P.No.2362 of 2020
5. M/s.Cotton Blossom (India) Pvt. Ltd,
No.1, Tejas Park, Aathupalayam Village,
Thirumuruganpoondi Post,
Tirupur-641 652 ...Respondent in W.P.No.2364 of 2020
6. M/s. Suparna Cotton Spinners(India) Ltd,
132,Palani Road, Venkatesa Mills Post,
Udumalpet – 642 128. ...Respondent in W.P.No.2366 of 2020
7. M/s. Apsara Theatre,
Gandhi Road,
Krishnagiri – 635 001. ...Respondent in W.P.No.3503 of 2020
8. M/s.South Indian Matriculation School,
Nachuvayanur Pirivu Road,
P.Kallipatty,
Panangattur, Omalur,
Salem – 636 455 ...Respondent in W.P.No.3978 of 2020
9. M/s. Elango Weavers Co-op.P&S
Society Ltd,
E.H.71, Karuppa Naickenpalayam,
Bhavani, Erode – 638 302.
Represented by its Secretary
Mr.B.N.Janarthnan ...Respondent in W.P.No.4589 of 2020



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10. M/s. Sterling Lab,
No.57, SIPCOT Industrial Complex,
Hosur – 635 126. ...Respondent in W.P.No.4615 of 2020

11. South Indian Matriculation Higher Secondary School,
Nachuvayanur Pirivu Road,
P.Kallipatty,
Panangattur, Omalur,
Salem – 636 455 ...Respondent in W.P.No.4944 of
2020

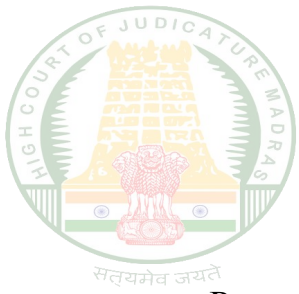
12. M/s. The Krishnagiri District Spinning Mills Ltd
No.S.A.108, Uthangarai
Krishnagiri District
Through its Administrator ...Respondent in W.P.No.10934 of 2020

13. M/s. T.Kolandaivelu & Co.,
No.18, K.A.S.Garden,
Narasothipatti,
Salem – 636 004. ...Respondent in W.P.No.10946 of 2020

14. M/s.T.K.Projects and Hotels (P) Ltd,
Hotel Ashwa Park,
Salem – 636 302 ...Respondent in W.P.No.10948 of 2020

15. M/s. Rockwood Estate,
(A Unit of Tea Estate India Ltd)
Gudalur, The Nilgiris – 643 225.
Coimbatore Dist.
Tamil Nadu. ...Respondent in W.P.No.16302 of 2020

16. The Regional Provident Fund Commissioner
Employees Provident Fund Organisation,
Sub- Regional Office, S.J.Plaza,
Swarnapuri,
Salem – 636 004. ...Respondent in W.P.No.18099 of 2020



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Prayer in W.P.No.1239 of 2020

To issue a Writ of Certiorari or any other appropriate order or direction in the nature of writ calling for the records from the file of the Presiding Officer, Employees Provident Fund Appellate Tribunal (CGIT) made in EPFA No.557 of 2018 (ATA.66(13) 2016) dated 12.4.2019 and quash the same as far as reducing the assessment of damages in to 50% under section 14 B of the act and to grant such other relief as may deem fit.

Prayer in W.P.No.2343 of 2020

To issue a Writ of Certiorari or any other appropriate order or direction in the nature of writ calling for the records from the file of the Presiding Officer, Employees Provident Fund Appellate Tribunal (CGIT) made in EPFA No.98 of 2018 (ATA.990(13)15) dated 27.6.2019 and quash the same as far as reducing the assessment of damages in to 35% under section 14 B of the act and to grant such other relief as may deem fit.

Prayer in W.P.No. 2359 of 2020

To issue a Writ of Certiorari or any other appropriate order or direction in the nature of writ calling for the records from the file of the Presiding Officer, Employees Provident Fund Appellate Tribunal (CGIT) made in EPFA No.560 of 2018 (ATA.56(13) 2016) dated 26.6.2019 and



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quash the same as far as reducing the assessment of damages in to 45% under section 14 B of the act and to grant such other relief as may deem fit.

Prayer in W.P.No. 2362 of 2020

To issue a Writ of Certiorari or any other appropriate order or direction in the nature of writ calling for the records from the file of the Presiding Officer, Employees Provident Fund Appellate Tribunal (CGIT) made in EPFA No.549 of 2018 (ATA.368 (13) 2016) dated 19.6.2019 and quash the same as far as reducing the assessment of damages in to 35% under section 14 B of the act and to grant such other relief as may deem fit.

Prayer in W.P.No. 2364 of 2020

To issue a Writ of Certiorari or any other appropriate order or direction in the nature of writ calling for the records from the file of the Presiding Officer, Employees Provident Fund Appellate Tribunal (CGIT) made in EPFA No.76 of 2018 (ATA.211 (13) 15) dated 13.6.2019 and quash the same as far as reducing the assessment of damages in to 35% under section 14 B of the act and to grant such other relief as may deem fit.

Prayer in W.P.No. 2366 of 2020

To issue a Writ of Certiorari or any other appropriate order or direction in the nature of writ calling for the records from the file of the Presiding Officer, Employees Provident Fund Appellate Tribunal (CGIT)



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made in EPFA No.530 of 2017 (69 (13) 2015) dated 6.6.2019 and quash the same as far as reducing the assessment of damages in to 45% under section 14B of the act and to grant such other relief as may deem fit.

Prayer in W.P.No.3503 of 2020

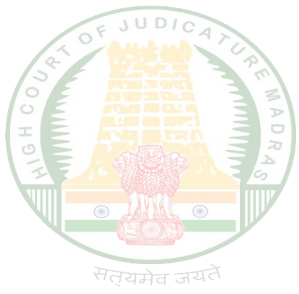
To call for the records relating to the proceedings of the Employees Provident Fund Appellate Tribunal order dated 27.09.2019 in EPFA No. 386 of 2017 and quash the order passed therein by issue of a Writ of Certiorari or any other appropriate writ, order or direction in the nature of writ and pass such further other orders as this Hon'ble Court deems fit.

Prayer in W.P.No.3978 of 2020

To call for the records relating to the proceedings of the Employees Provident Fund Appellate Tribunal order dated 03.10.2019 in EPFA No.481 of 2017 and quash the order passed therein by issue of a Writ of Certiorari or any other appropriate writ, order or direction in the nature of writ and pass such further other orders as this Hon'ble Court deems fit.

Prayer in W.P.No.4589 of 2020

To call for the records relating to the proceedings of the Employees Provident Fund Appellate Tribunal order dated 17.10.2019 in EPFA No.518 of 2017 and quash the order passed therein by issue of a Writ of Certiorari or any other appropriate writ, order or direction in the nature of writ and pass such further other orders as this Hon'ble Court deems fit.



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Prayer in W.P.No.4615 of 2020

To call for the records relating to the proceedings of the Employees Provident Fund Appellate Tribunal order dated 24.10.2019 in EPFA No.351 of 2018 and quash the order passed therein by issue of a Writ of Certiorari or any other appropriate writ, order or direction in the nature of writ and pass such further other orders as this Hon'ble Court deems fit.

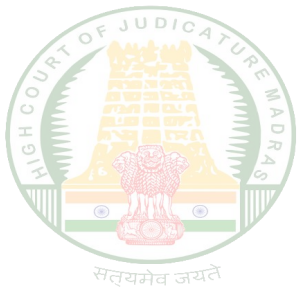
Prayer in W.P.No.4944 of 2020

To call for the records relating to the proceedings of the Employees Provident Fund Appellate Tribunal order dated 27.09.2019 in EPFA No.324 of 2018 and quash the order passed therein by issue of a Writ of Certiorari or any other appropriate writ, order or direction in the nature of writ and pass such further or other orders as this Hon'ble Court deems fit.

Prayer in W.P.No.10934 of 2020

To call for the records relating to the proceedings of the Employees Provident Fund Appellate Tribunal order dated 29.1.2020 in EPFA No.210/2017/69(13)2013 and quash the order passed therein by issue of a Writ of Certiorari or any other appropriate writ, order or direction in the nature of writ and pass such further other orders as this Hon'ble Court deems fit.

Prayer in W.P.No.10946 of 2020



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WEB COPY To call for the records relating to the proceedings of the Employees Provident Fund Appellate Tribunal order dated 09.12.2019 in EPFA No.157 of 2019 and quash the order passed therein by issue of a Writ of Certiorari or any other appropriate writ, order or direction in the nature of writ and pass such further other orders as this Hon'ble Court deems fit.

Prayer in W.P.No.10948 of 2020

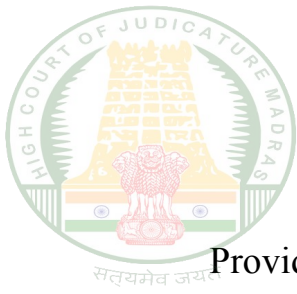
To call for the records relating to the proceedings of the Employees Provident Fund Appellate Tribunal order dated 11.12.2019 in EPFA No.610 of 2018 and quash the order passed therein by issue of a Writ of Certiorari or any other appropriate writ, order or direction in the nature of writ and pass such further other orders as this Hon'ble Court deems fit.

Prayer in W.P.No.16302 of 2020

To call for the records relating to the proceedings of the Employees Provident Fund Tribunal, New Delhi dated 26.05.2014 in ATA No. 396(13) 2013 and quash the order passed therein by issue of a Writ of Certiorari or any other appropriate writ, order or direction in the nature of writ and pass such further or other orders as this Hon'ble Court deems fit.

Prayer in W.P.No.18099 of 2020

To issue a writ, order or direction more specifically in the nature of Writ of Certiorari calling for records of impugned order in EPFA 210 of 2017 dated 29-01-2020 passed by the Presiding Officer, Employees



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Provident Fund Appellate Tribunal, Chennai to waive off the entire amount of damages determined vide order ref. no. TN/SLM/SRO/PDC/21411/KNG-01/14B-PROCEEDING/2012 dated 27-12-2012 and direct the Respondent to refund the amount of Rs.77,00,000/- (Rupees Seventy Seven Lakhs only) to the Petitioner society and pass such further or other orders as this Hon'ble Court may deem fit and proper.

Prayer in WMP No.4095 of 2020

To stay all further proceedings pursuant to the order passed by the Employees Provident Fund Appellate Tribunal dated 27.09.2019 in EPFA No.386 of 2017 pending disposal of the above writ petition.

Prayer in WMP No. 4720 of 2020

To stay all further proceedings pursuant to the order passed by the Employees Provident Fund Appellate Tribunal dated 3.10.2019 in EPFA No.481 of 2017 pending disposal of the above writ petition.

Prayer in WMP No. 5445 of 2020

To stay all further proceedings pursuant to the order passed by the Employees Provident Fund Appellate Tribunal dated 17.10.2019 in EPFA No.518 of 2017 pending disposal of the above writ petition.

Prayer in WMP No. 5474 of 2020

To stay all further proceedings pursuant to the order passed by the Employees Provident Fund Appellate Tribunal dated 24.10.2019 in EPFA



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No.351 of 2018 pending disposal of the above writ petition.

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Prayer in WMP No.5850 of 2020

To stay all further proceedings pursuant to the order passed by the Employees Provident Fund Appellate Tribunal dated 27.09.2019 in EPFA No. 324 of 2018 pending disposal of the above Writ Petition.

Prayer in WMP No. 13290 of 2020

To stay all further proceedings pursuant to the order passed by the Employees Provident Fund Appellate Tribunal dated 29.1.2020 in EPFA No.210/2017/69(13)2013 pending disposal of the above writ petition.

Prayer in WMP No. 13309 of 2020

To stay all further proceedings pursuant to the order passed by the Employees Provident Fund Appellate Tribunal dated 9.12.2019 in EPFA No.157 of 2019 pending disposal of the above writ petition.

Prayer in WMP No. 13312 of 2020

To stay all further proceedings pursuant to the order passed by the Employees Provident Fund Appellate Tribunal dated 11.12.2019 in EPFA No.610 of 2018 pending disposal of the above writ petition.

Prayer in WMP No. 20399 of 2020

To dispense with the production or original copy of order of the Tribunal dated 26.05.2014 in ATA No.396(13)2013 for filing the above writ petition.

Appearance of Parties:



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For Petitioners:

Mr.C.Kulanthaivel, Advocate (W.P.No. 1239/2020, 2343/2020, 2359/2020, 2362/2020, 2364/2020, 2366/2020)

Ms.R.Meenakshi, Advocate (W.P.No.3503/2020, 3978/2020, 4589/2020, 4615/2020, 4944/2020, 10934/2020, 10946/2020, 10948/2020, 16302/2020)

M/s.P.Thangaraj and C.Karthikeyan, Advocates (W.P.No.18099/2020)

For Respondents:

Mr.P.Thangaraj, Advocate (W.P.No.1239/2020, 2366/2020, 4589/2020, 10946/2020, 10948/2020)

M/s. Meenakshi, V.Mohanapriya & Sukanya, Advocates (W.P.No. 18099/2020)

Mr.J.Sivananda Raj, Advocate, For M/s. Kaushik Ramasamy and Advaith Raj, Advocates (W.P.No. 16302/2020)

Notice not served (W.P.No. 2343/2020, 2359/2020, 2364/2020)

No appearance (W.P.No. 2362/2020 , 3503/2020, 3978/2020, 4615/2020 , 4944/2020, 10934/2020)

COMMON JUDGMENT

Heard.

2. These writ petitions, though heard on different dates, involve a



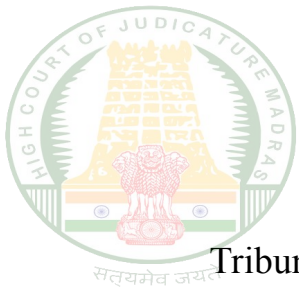
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common subject matter—the orders passed by the Employees Provident Fund Tribunal within a specific period. Therefore, they have been grouped together, and a common judgment is being delivered.

3. In all these cases, the writ petitioners are officers of the Employees Provident Fund Organisation. The contesting respondents, having challenged the orders issued by these officers, approached the Employees Provident Fund Tribunal, which granted certain reliefs to the subscribers. Aggrieved by these orders, the petitioners have filed the present writ petitions.

4. These petitions were either admitted or had notice of motion ordered on different dates, and the contesting respondents have entered appearance through their respective counsels. In some cases, counter affidavits have also been filed. Since these writ petitions challenge Tribunal orders issued on different dates, the essential details of each case are outlined below.

5. In W.P. No. 1239 of 2020, the Tribunal, by its order dated 12.04.2019, allowed the appeal filed by the contesting respondent. The



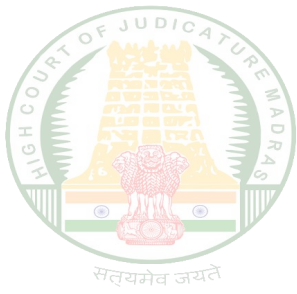
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Tribunal granted relief concerning the interest payable under Section 7Q of the Employees' Provident Funds Act and permitted the damages under Section 14B to be paid in installments. The operative portion of the order is as follows:

“The Appellant is directed to deposit the interest under 7Q in two instalments i.e. the 1st instalment of Rs.1,08,682/- (Rupees One lakh Eight thousand Six hundred & eighty two only) and the 2nd instalment of Rs.1,00,000/- (Rupees One lakh only) within a period of two months from the date of receipt of the order and also to deposit the amount of Rs.1,89,007.50 (Rupees One lakh Eighty nine thousand Seven and Paise Fifty only) under 14B within a period of three months from the date of receipt of the order, before the Respondent failing which the Respondent is at liberty to recover the same under the process of law.”

6. In W.P. No. 2343 of 2020, the Tribunal entertained the appeal filed by the contesting respondent challenging the petitioner's orders and granted partial relief concerning both interest and damages. The operative portion of the order is as follows:

The Appellant is hereby directed to deposit Rs.1,63,502/- (Rupees One lakh Sixty three thousand Five hundred two only) under 7Q and Rs.1,14,560/- (Rupees One lakh Fourteen thousand Five hundred Sixty only) (50%) of the impugned Order No. TN/RO/CBE/PDC/CC23/45454/14BPROCEEDING/ DATED 27.07.2015 under 14B before the Respondent, within a period of three months from the



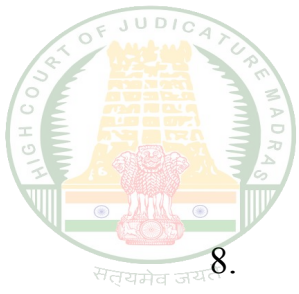
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date of receipt of the order, failing which the Respondent is at liberty to realize the same from the Appellant under the process of law.”

7. In this writ petition, though notice was ordered on 03.02.2020, the petitioner failed to ensure its service. The notice issued by the court was returned unserved due to an incorrect address. Subsequently, the petitioner filed *bata* with the same address for a second time and also attempted service through private notice to the same address. The private notice was returned undelivered with the endorsement “left, return to sender” on 08.02.2020. Despite this, the petitioner’s counsel filed an affidavit of service, asserting that proper service should be deemed to have been effected. When the matter was listed on 10.02.2025, this Court directed fresh notice to be sent to the correct address and scheduled the case for hearing on 12.02.2025. However, no further steps were taken by the petitioner’s counsel, and the respondent remained unserved as of 17.02.2025, the date on which orders were reserved. In view of the failure to effect service, the writ petition is liable to be dismissed without delving into the merits of the case.



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8. In W.P. No. 2359 of 2020, the writ petition has been filed challenging the order of the Employees Provident Fund Tribunal in EPFA No. 560 of 2018 dated 26.06.2019, wherein partial relief was granted to the contesting respondent. The relevant portion of the order is as follows:

“The Appellant is directed to deposit Rs.2,09,619/- (Rupees Two lakhs Nine thousand Six hundred Nineteen only) under 7Q of the Impugned Order No. CB/CBE/0078522/000/ENF/DAMAGES/7Q PROCEEDING/2015 dtd. 12/2015 within two months from the date of receipt of this order.

The Appellant is further directed to deposit the amount of Rs.1,90,720/- (Rupees One lakh Ninety thousand Seven hundred Twenty only) (45%) of the impugned order no. CB/CBE/0078522/000/ENF/DAMAGES/14B PROCEEDING/2015 dtd. 12/2015 in two instalments within a period of two months (i.e. Rs.1,00,000/- and Rs.90,720/- respectively) from the date of deposit of interest amount under 7Q before the Respondent failing which the Respondent is at liberty to recover the same under the process of law.”

9. This Court ordered notice on 03.02.2020. The notice sent to the respondent was returned unserved, with an endorsement from the Junior Bailiff of the Coimbatore District Court dated 29.09.2021, stating that there was no such addressee. The postal cover sent by the court to the same address was also returned unserved stating that the hospital

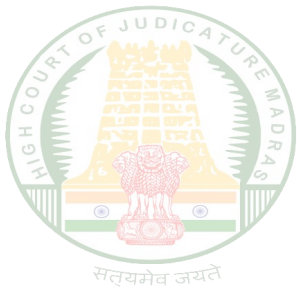


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closed, returned to sender. The petitioner's counsel filed an affidavit of service dated 17.02.2020, stating that the notice he sent by post was returned with the endorsement "left" and requested the court to pass appropriate orders. This affidavit was insufficient, as the counsel ought to have taken further steps to ensure proper service on the respondent. When the matter was listed on 10.02.2025, the counsel undertook to serve notice at the correct address, and the case was accordingly posted for hearing on 12.02.2025. Despite this, no proof of service was filed, and the respondent remained unserved up to the date when orders were reserved. Given the failure to effect service, the writ petition is liable to be dismissed without considering the merits of the case.

10. In W.P. No. 2362 of 2020, the writ petitioner challenges the order of the Employees Provident Fund Tribunal in EPFA No. 549 of 2018 (ATA 368(13) 2016) dated 19.06.2019. The Tribunal partially allowed the appeal filed by the respondent and granted relief concerning interest and damages. The relevant portion of the Tribunal's order is as follows:

*"The Appellant is directed to deposit Rs.1,05,728/-
(Rupees One lakh Five thousand Seven hundred Twenty*



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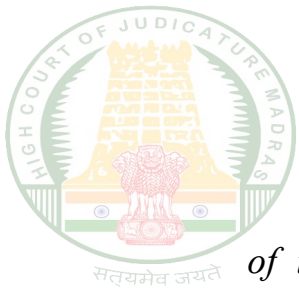
eight only) under 7Q and Rs.73,791/- (Rupees Seventy three thousand Nine hundred Seventy one only) (35% of the assessed amount) as per the Impugned Order No.TN/RO/CBE/PDC/CC23/56613/14B PROC/2015 dtd. 25.06.2015 within two months from the date of receipt of this order before the Respondent failing which the Respondent is at liberty to recover the same under the process of law.”

11. Notice was ordered on 03.02.2020, and the respondent was duly served; however, no appearance was made on their behalf.

12. In W.P. No. 2364 of 2020, the petitioner challenges the order passed by the Employees Provident Fund Tribunal in EPFA No. 76 of 2018 (ATA 211(13) 15) dated 13.06.2019, wherein the Tribunal partially allowed the appeal. The operative portion of the order is as follows:

“The Appellant is directed to deposit Rs.2,35,703/- (Rupees Two lakhs Thirty Five thousand Seven hundred three only) under 7Q of the Impugned Order No.TN/RO/CBE/PDC/CC23/86870/2014 dtd.13.02.2015 in two instalments i.e. Rs.1,35,703/- as first instalment and Rs.1,00,000/- as second instalment within two months from the date of receipt of this order.

The Appellant is further directed to deposit the amount of Rs.94,042/- (Rupees Ninety four thousand Forty two only) (35%

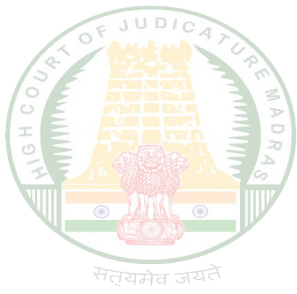


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of the assessed amount) under 14B of the Impugned Order No.TN/RO/CBE/PDC/CC23/86870/2014 dtd. 13.02.2015 within a period of one month from the date of deposit of last instalment under 7Q before the Respondent failing which the Respondent is at liberty to recover the same under the process of law.”

13. Notice was ordered in the writ petition on 24.02.2020. However, the notice sent from the court was returned with the endorsement “addressee left, returned to sender.” When the matter was listed on 10.02.2025, the petitioner’s counsel undertook to serve notice at the correct address, and the case was accordingly posted for hearing on 12.02.2025. Despite this, no further steps were taken, and as of 17.02.2025, the date on which orders were reserved, the respondent remained unserved. Therefore, the writ petition is liable to be dismissed on the short ground of want of service.

14. In W.P. No. 2366 of 2020, the writ petitioner, the Employees Provident Fund Organisation (EPFO), challenges the order passed by the Tribunal in EPFA No. 530 of 2017 (69(13) 2015) dated 06.06.2019. In this order, the Tribunal partially allowed the appeal filed by the respondent and granted the following relief:



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“The Appellant is directed to deposit Rs.13,73,068/- (Rupees Thirteen lakhs Seventy three thousand Sixty eight only) under 7Q of the Impugned Order No. TN/RO/CBE/PDC/CC24/51/7Q PROCEEDING/2014 dtd.06.01.2015 in two instalments within three months from the date of receipt of this order.

The Appellant is further directed to deposit the amount of Rs.12,70,170/- (Rupees Twelve lakhs Seventy thousand One hundred Seventy only) (45% of the assessed amount) under 14B of the Impugned Order TN/RO/CBE/PDC/CC24/51/14B PROCEEDING/2014 dtd. 06.01.2015 in two instalments within a period of three months from the date of deposit of last instalment under 7Q before the Respondent failing which the Respondent is at liberty to recover the same under the process of law.”

15. In this writ petition, although notice was ordered on 03.02.2020, the notice sent from the court was returned undelivered. However, on 17.02.2025, the counsel accepted notice on behalf of the respondent, despite no *vakalatnama* being filed on their behalf.

16. In W.P. No. 3503 of 2020, the petitioner, the Assistant Provident Fund Commissioner, challenges the order passed by the Employees Provident Fund Tribunal in EPFA No. 386 of 2017 (ATA 1148(13) 2014) dated 27.09.2019. The Tribunal partially allowed the appeal filed by the



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respondent and granted relief concerning interest and damages. The

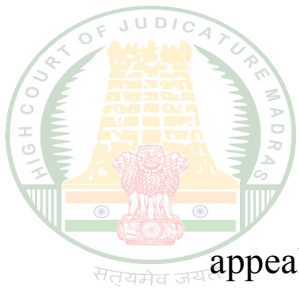
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operative portion of the order is as follows:

“The Appellant is hereby directed to deposit the entire dues determined under 7Q amounting to Rs.84,742/- vide Impugned Order No. TN/SRO/SLM/PDC/25856/KR-01/7-Q PROCEEDING/2014 dtd.26.08.2014, if not remitted by the Appellant or recovered by the Respondent and also further directed to deposit 40% (i.e. Rs.70,407) in place of Rs.1,76,017/- of the dues determined under 14B vide Impugned Order No.TN/SLM/SRO/PDC/25856/K-01/14B/PROCEEDINGS/2014 dtd.26.08.2014, before the Respondent within a period of two months from the date of receipt of this order, failing which the Respondent is at liberty to recover the same under the process of law.”

17. In this writ petition, notice was ordered on 14.02.2020. As per the endorsement made by the Registry on 21.02.2020, the respondent was duly served, and the acknowledgment card is available in the file. However, no appearance has been made on their behalf.

18. In W.P. No. 3978 of 2020, the petitioner, the Regional Provident Fund Commissioner, Salem, challenges the order passed by the Employees Provident Fund Tribunal in EPFA No. 481 of 2017 (ATA No. 1170(13) 2014) dated 03.10.2019. The Tribunal partially allowed the



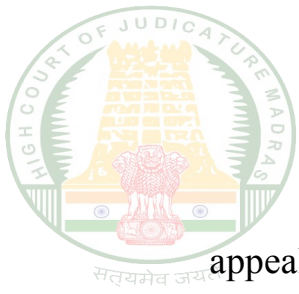
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appeal and granted relief to the respondent concerning interest and damages payable. The operative portion of the order is as follows:

“The Appellant is hereby directed to deposit the entire dues under 7Q of Rs.1,34,199/- (Rupees One lakh Thirty four thousand One hundred Ninety nine only) vide Impugned Order No. TN/SLM/SRO/PDC/47929/SLM-02/7Q PROCEEDING/2014 dtd. 21.08.2014 and the Appellant is further directed to deposit the modified amount of Rs.1,51,056/- (Rupees One Lakh fifty one thousand Fifty six only) (50%) in place of Rs.3,02,111/- vide Impugned Order No.TN/SLM/SRO/PDC/47929/SLM-02/14B PROCEEDING/2014 dtd. 21.08.2014, before the Respondent within a period of two months from the date of receipt of this order, failing which the Respondent is at liberty to recover the same under the process of law.”

19. In this writ petition filed by the Regional Provident Fund Commissioner, notice was ordered on 20.02.2020. The notice sent by the court was received by the respondent on 24.02.2020. However, the respondent has chosen not to appear or contest the case.

20. In W.P. No. 4589 of 2020, the petitioner, the Assistant Provident Fund Commissioner, Salem, challenges the order of the Employees Provident Fund Tribunal in EPFA No. 518 of 2017 (ATA 112(13) 2015) dated 17.10.2019. The Tribunal partially allowed the



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appeal and granted the following relief:

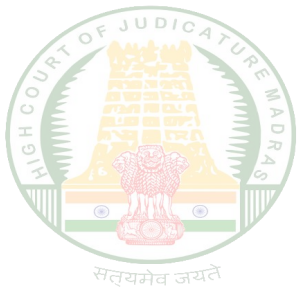
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“The Appellant is hereby directed to deposit the entire dues under 7Q of Rs.1,60,737/- (Rupees One lakh Sixty thousand Seven hundred Thirty seven only) vide Impugned Order No.TN/SLM/SRO/PDC/34793/ED/7Q-PROCEEDING/2014 dtd.30.12.2014 and further directed to deposit the modified amount of Rs.95,289 (Rupees Ninety five thousand Two hundred Eighty nine only) (40%) in place of Rs.2,38,223/- vide Impugned Order No. TN/SLM/SRO/PDC/34793/ED-03/14B-PROCEEDING/2014 dtd.30.12.2014 before the Respondent within a period of two months from the date of receipt of this order, failing which the Respondent is at liberty to recover the same under the process of law.”

21. In this writ petition, notice was ordered on 26.02.2020, and the respondent was duly served. The respondent's counsel has entered an appearance.

22. In W.P. No. 4615 of 2020, the Regional Provident Fund Commissioner, Salem, challenges the order passed by the Employees Provident Fund Tribunal in EPFA No. 351 of 2018 (ATA A/TN/45/2017) dated 24.10.2019. The Tribunal allowed the appeal filed by the respondent and granted partial relief concerning interest and damages.

The operative portion of the order is as follows:



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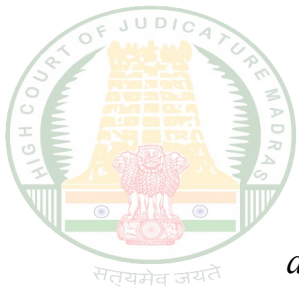
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“The Appellant is hereby directed to deposit the entire dues under 7Q of Rs.1,28,499/- (Rupees One lakh Twenty eight thousand Four hundred Ninety nine only) vide Impugned Order No. TN/SLM/SRO/PDC/28392/K-II/7Q-PROCEEDING /2015 dtd. 08/2015 and further directed to deposit the modified amount of (50%) i.e. Rs.79,250/- (Rupees Seventy nine thousand Two hundred Fifty only) in place of Rs.1,58,500/- vide Impugned Order No.TN/SLM/SRO/PDC/28392/K-II/14B-PROCEEDING/2015 dtd. 08/2015, before the Respondent within a period of one month from the date of receipt of this order, failing which the Respondent is at liberty to recover the same under the process of law.”

23. In this writ petition, notice was ordered on 27.02.2020. Although the respondent was duly served, they have not appeared before this Court.

24. In W.P. No. 4944 of 2020, the petitioner, the Assistant Provident Fund Commissioner, Salem, challenges the order of the Employees Provident Fund Tribunal in EPFA No. 324 of 2018 (A/TN-13/2017) dated 27.09.2019. The Tribunal partially allowed the appeal and granted the following relief:

“The Appellant is hereby directed to deposit the modified



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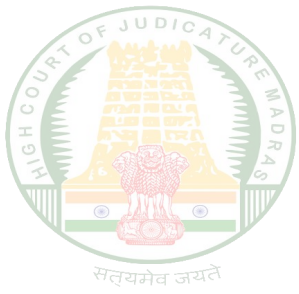
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amount of Rs.2,03,727/- (Rupees Two lakhs Three thousand Seven hundred Twenty seven only) (50%) in place of Rs.4,07,453/- vide Impugned Order No.CB/SLM/SRO/PDC/47929/S-2/14B-PROCEEDING/2016 dtd. 16.11.2016 before the Respondent within a period of one month from the date of receipt of this order, (in case of recovery or remittance of any part of the dues determined under 14B, shall be a part of 50%) failing which the Respondent is at liberty to recover the same under the process of law.”

25. Notice was ordered in the above writ petition on 02.03.2020, and the respondent was served on 07.03.2020. Notwithstanding the same, this Court ordered a fresh notice on 20.02.2025, which is yet to be served, and service is still awaited. However, in the same batch, in W.P. No. 3978 of 2020, the same respondent was duly served with notice but chose not to appear or contest the case.

26. In W.P. No. 10934 of 2020, the petitioner, the Regional Provident Fund Commissioner, Salem, challenges the order of the Employees Provident Fund Tribunal in EPFA No. 210 of 2017 (69(13)2013) dated 29.01.2020. The Tribunal partially allowed the appeal filed by the respondent and granted the following relief:

“In the result it is held prudent to waive the rest of the balance



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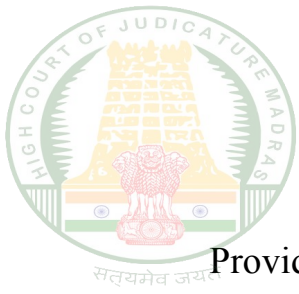


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dues determined in the Impugned Order No.TN/SLM/SRO/PDC/21411/KNG-01/14B-PROCEEDING/2012 dtd. 07.12.2012 considering the facts and circumstance in the given case as much as the Appellant has already deposited Rs.77.00 lakhs vide DD No. 469818 dtd. 26.03.2014 drawn on State Bank of India, Uthangarai Branch, before the Respondent. The Appellant is not required to deposit/ remit the rest of the balance dues, since waived.”

27. Notice was ordered in the writ petition on 21.08.2020, and the respondent was duly served but has not entered an appearance. However, the same respondent, The Krishnagiri District Co-operative Spinning Mills Ltd., filed a separate writ petition, W.P. No. 18099 of 2020, challenging the very same order of the Tribunal dated 29.01.2020. In that petition, the respondent sought to quash the relevant portion of the Tribunal's order, claim full relief, and also challenge the order dated 27.12.2012 passed by the Regional Provident Fund Commissioner, Salem, seeking a refund of Rs. 77 lakhs to the petitioner society. That W.P. No. 18099 of 2020 was admitted on 11.12.2020 and was directed to be heard along with the department's writ petition, W.P. No. 10934 of 2020.

28. In W.P. No. 10946 of 2020, the petitioner, the Assistant



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Provident Fund Commissioner, challenges the order of the Employees

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Provident Fund Tribunal in EPFA No. 157 of 2019 dated 09.12.2019. The

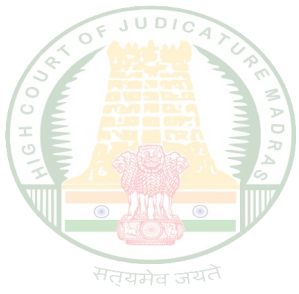
Tribunal partially allowed the appeal and granted the following relief:

“The Appellant is directed to deposit the modified amount of (60%) i.e. Rs.94,948 (Rupees Ninety four thousand Nine hundred Forty eight only) in place of Rs.1,58,246/- vide Impugned order No.CB/SLM/SRO/PDC/1908466/S-5/14B-PROCEEDING/2019 dtd. 27.05.2019 before the Respondent within a period of one month from the date of receipt of this order, failing which the Respondent is at liberty to recover the same under the process of law.”

29. Notice was ordered in the above writ petition, and the respondent has entered an appearance through counsel.

30. In W.P. No. 10948 of 2020, the petitioner, the Assistant Provident Fund Commissioner, Salem, challenges the order of the Employees Provident Fund Tribunal in EPFA No. 610 of 2018 dated 11.12.2019. The Tribunal partially allowed the appeal and granted relief to the respondent. The operative portion of the order is as follows:

“The Appellant is directed to deposit the modified amount of (55%) i.e. Rs.54,559/- (Rupees Fifty four thousand Five hundred Fifty nine only) in place of Rs.99,198/- vide



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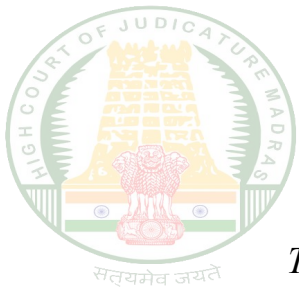
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Impugned Order No. CB/SLM/SRO/PDC/1413351/S-1/14B-PROCEEDING/2018 dtd. 27.02.2018 before the Respondent within a period of one month from the date of receipt of this order, failing which the Respondent is at liberty to recover the same under the process of law.”

31. Notice was ordered in this writ petition to the respondent on 21.08.2020. The respondent has been duly served and has entered an appearance through counsel.

32. In W.P. No. 16302, the petitioner, the Regional Provident Fund Commissioner, Coimbatore, challenges the order of the Employees Provident Fund Tribunal in ATA No. 396(13) 2013 dated 26.05.2014— filed six years after the Tribunal's order. The Tribunal allowed the appeal and quashed the petitioner's order issued under Section 7A of the EPF Act dated 27.05.2013. The Tribunal declined to include allowances and other disputed payments within the definition of *basic wages*. In paragraph 21, the Tribunal held as follows:

“Be that as it may, the fact remains that this Court is of the opinion that the contention of the learned counsel for the Respondent that the allowances and all other disputed payments could not be excluded and that the basic wage and dearness allowance as notified under the minimum wage notification was deliberately being deflated is not correct.



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The exclusion clause is fairly large and the exclusions made while determining the basic wage cannot be said to be unjustified as they are not at variance or deviation of the concept of allowances, bonuses and incentives sought to be under this exclusion.

For the aforesaid reasons I find valid reasons in the arguments on behalf of the Appellant and accordingly, the appeal is allowed and the impugned order passed by the Respondent is quashed being illegal. Appeal file be consigned to the record room. Copy of the order be sent to both the parties.”

33. The writ petition was admitted on 20.11.2020 and was directed to be listed along with W.P. No. 9948 of 2020. However, the Registry noted that the case bundle related to that writ petition was not traceable.

Upon notice from this Court, the respondent entered an appearance and filed a counter affidavit dated 25.02.2025. The reason for filing the writ petition after six years is explained in paragraph 13, which is as follows:

“It is submitted that the petitioner had not received the copy of order passed by the Tribunal in Appeal No. 396(13) 2013 by change of penal counsel. Therefore, the petitioner sent a letter to the registrar of CGIT – cum-Labour Court on 26.05.2014 requesting to provide a copy of order of Tribunal, but the same was not received and also sent reminder letter on 11.08.2020.”



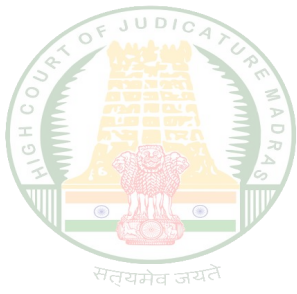
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34. To justify the claim that they had not received the order, the petitioner filed WMP No. 20399 of 2020, seeking exemption from producing the original order. In the affidavit submitted in support of this petition, the following averment was made in paragraph 19:

“I submit that at present the original order passed by the Tribunal, dated 26.05.2014 in ATA No.396(13) 2013 is not available with the petitioner. It is just and necessary that this Hon’ble Court may be pleased to dispense with the production of original copy of order of the Tribunal dated 26.05.2014 in ATA No. 396(13) 2013 for filing the above writ petition.”

35. As per the rule requiring a copy of the order to be enclosed for dispensing with the production of the original order, the petitioner submitted a photocopy of the original order, which bore the signature and seal of the Presiding Officer of the Tribunal. This photocopy was taken from a certified copy issued to the parties as early as May 2014. In the counter affidavit filed by the respondent on 25.02.2025, a strong objection was raised regarding the inordinate delay in filing the writ petition. In paragraph 2 of the affidavit, the respondent stated as follows:

“I respectfully submit that, at the outset, there is an



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intentional inordinate delay of 2347 days in filing this writ petition since the impugned order was passed by the Appellate Tribunal on 26-05-2014. The Petitioner has not given any sufficient explanation for the delay of 2347 days which is unacceptable. This Hon'ble High Court, on the ground of laches, dismissed a batch of 11 writ petitions in a similar case filed by this Petitioner along with this writ petition.”

36. In support of their contention, the respondent also cited certain decisions of this Court where writ petitions were dismissed on the grounds of delay and laches. However, the standing counsel for the EPF Department relied on the following judgments to justify the delay:

- A.M/s. Hindustan Times Ltd Vs. Union of India & Others (SCC)
- b. Modern Public School Education Society Vs. EPF Appellate Tribunal & anr., 2007 II LLJ 772
- c. Regional Provident Fund Commissioner Vs. Employees Provident Fund Appellate Tribunal & 1 anr., CWP No. 5201/2000
- d. Orissa Manganese & Mineral P.Ltd Vs. Regional Provident Fund Commissioner (SCC), WP (C) No. 16598/2011
- e. Assistant Provident Fund Commissioner Vs. EPF Appellate Tribunal, WA.No.2288/2021

While there is no dispute regarding the legal principles laid down in the cited judgments, it remains unclear how the factual circumstances discussed therein apply to the present case. The last two decisions of the



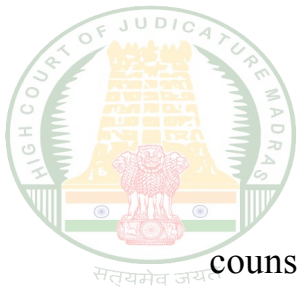
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Orissa High Court and the Madras High Court merely establish that the Limitation Act does not apply to writ petitions and that no specific limitation period is prescribed for their filing. However, the dismissal of writ petitions on the grounds of delay and laches is based on entirely different considerations. This Court has already referred to relevant precedents supporting this proposition in its order dated 07.03.2025, wherein a batch of writ petitions filed by the same department was dismissed.

37. This Court, in a batch of writ petitions, by its order dated 07.03.2025 (*The Regional Provident Fund Commissioner, Coimbatore & Anr. vs. M/s. Thaishola Estate & 15 Ors.*), dismissed the petitions on the grounds of delay and laches. In paragraph 22 of the order, the Court held as follows:

“Thus, on the sole ground of unexplained delay and laches, all the writ petitions are liable to be dismissed. Consequently, all the WMPs are also dismissed.”

38. This writ petition was initially listed along with the above batch, as all the impugned orders dated back to 2014 or earlier, with delays ranging from 6 to 9 years. However, at the request of the respondent's



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counsel, who sought time to file a counter affidavit and an additional typed set of documents, this matter was delinked from that batch. While no costs were imposed on the EPF Department in the previous batch for filing writ petitions with such excessive delay and laches, the specific circumstances of this case warrant the imposition of costs against the department.

39. In the earlier batch of cases, the reason provided for the delayed filing of the writ petitions was that the panel counsel was unwell, and the case bundles could not be retrieved in time to engage another counsel. However, in this case, the affidavit filed in support of the writ petition cites a different reason—that the petitioner did not receive the Tribunal's order and had sent reminders. Further, in the WMP, yet another justification was given—namely, that the order was not available with the petitioner, and a dispensation was sought by submitting a photocopy of the order taken from the certified copy issued to the parties by the Tribunal. However, the affidavit does not explain how the petitioner came into possession of the order. This clearly reflects an attempt to approach this Court with unclean hands, which is particularly concerning



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given that the petitioner is a statutory authority. Hence while dismissing this writ petition in W.P.No.16302 of 2020 only on the ground of enormous delay and laches consistence with similar orders passed by different learned judges, this court is inclined to order a cost of Rs.10,000/- payable by the writ petitioner (RPF Commissioner, Coimbatore) to the counsel for the Respondent. In view of the dismissal, the merits of the case are not gone into.

40. Apart from the dismissal of three writ petitions due to lack of service on the respondents and one writ petition on the grounds of delay and laches, the remaining 12 writ petitions are taken up for consideration on merits. In all 12 cases, the impugned orders were passed by the Employees Provident Fund Tribunal, constituted under Section 7D of the EPF Act, 1952, by the same Presiding Officer, with most orders containing similar reasoning. As previously noted, the Tribunal granted partial relief to the contesting respondents, interfering with the orders issued by EPFO officers concerning the demand for interest and damages. In one case, a contesting respondent, dissatisfied with the partial relief granted by the Tribunal, has filed a cross writ petition



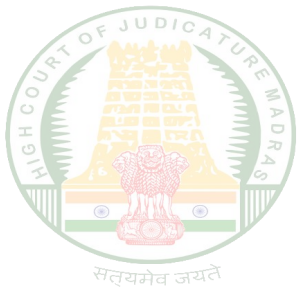
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seeking full relief.

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41. Before examining the rival contentions, it is necessary to analyze the orders of the Tribunal along with the reasoning provided therein. While considering the pleas raised by the contesting respondents—who were the appellants before the Tribunal—regarding the financial difficulties they faced, the Tribunal referred to the Supreme Court’s decision in *Hindustan Times Ltd. v. Union of India & Ors.*, reported in 1998 (2) SCC 242, and rejected their plea. In that case, the Supreme Court, in paragraph 29, laid down the principles to be followed while determining damages under Section 14B of the EPF Act, as follows:

“From the aforesaid decisions, the following principles can be summarised: The authority under Section 14-B has to apply his mind to the facts of the case and the reply to the show cause notice and pass a reasoned order after following principles of natural justice and giving a reasonable opportunity of being heard; the Regional Provident Fund Commissioner usually takes into consideration the number of defaults, the period of delay, the frequency of default and the amounts involved; default on the part of the employer based on pleas of power cut, financial problems relating to other indebtedness or the delay in realisations of amounts paid by the cheques or drafts, cannot be justifiable grounds for the employer to escape liability; there is no period of limitation prescribed



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by the legislature for initiating action for recovery of damages under section 14B. The fact that proceedings are initiated or demand for damages is made after several years cannot by itself be a ground for drawing an inference of waiver or that the employer was lulled into a belief that no proceedings under section 14B would be taken; mere delay in initiating action under section 14B cannot amount to prejudice inasmuch as the delay on the part of the department, would have only allowed the employer to use the monies for his own purposes or for his business especially when there is no additional provision for charging interest. However, the employer can claim prejudice if there is proof that between the period of default and the date of initiation of action under section 14B, he had changed his position to his detriment to such an extent that if the recovery is made after a large number of years, the prejudice to him is of an "irretrievable" nature: he might also claim prejudice upon proof of loss of all the relevant records and/or non-availability of the personnel who were, several years back in charge of these payments and provided he further establishes that there is no other way he can reconstruct the record or produce evidence; or there are other similar grounds which could lead to "irretrievable" prejudice; further, in such cases of "irretrievable" prejudice, the defaulter must take the necessary pleas in defence in the reply to the show cause notice and must satisfy the concerned authority with acceptable material; if those pleas are rejected, he cannot raise them in the High Court unless there is a clear pleading in the writ petition to that effect."

42. Thereafter, in all the impugned orders, the Tribunal observed



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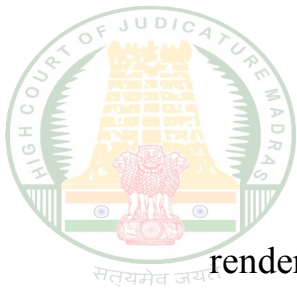
that when considering the delay in remittance of the subscription by the subscribers, there must be an element of intent behind such delay, which the authority is also required to take into account. To support this view, the Tribunal relied on a judgment under the ESI Act, in re State Insurance Corporation v. HMT Ltd. & Anr. , reported in 2008 (3) SCC 35, wherein the Court held as follows:

“21. Existence of mens rea or actus reus to contravene a statutory provision must also be held to be a necessary ingredient for levy of damages and/or the quantum thereof.”

43. Drawing inspiration from the above observation, the Tribunal, in the impugned orders, arrived at the following finding:

“Since mensrea or actus reus being a necessary ingredient for levy of damage and / quantum thereof the Respondent was obliged to consider the circumstance under which delay occurred in remittance of the statutory contribution in view of the case,”

Subsequently, the Tribunal, after considering the judgments of the Kerala High Court and this Court in *Regional Provident Fund Commissioner v. Harrisons Malayalam Ltd.*, 2013 LLR 1083, and *Terrace Estates, Unit of United Plantation Ltd. v. APFC, Coimbatore*, 2010 LAB IC 252,



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rendered the following decision:

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“The Hon’ble High Court of Madras in the case of Terrace Estates, United Plantation Ltd Vs. APFC, Coimbatore 2010 LAB IC 252 observed that Clause 32A of the EPF Scheme can be termed only as guideline and it cannot be stated that the Authority can pass the order mechanically applying the regulations. In this context, the observation held by the High Court of Kerala in the case of R.P.F.C.Vs. Harrisons Malayalam Ltd 2013 LLR 1083 is relied on. It is held that “Clause 32A is only a guideline and not a rigid formula to be applied uniformly in all cases of delay in payment of contributions but shall be applied objectively taking into account the reasons for delay pleaded by the defaulter and in appropriate cases lesser amount than what has been prescribed in Clause 32A shall be imposed.” Further in view of the judicial pronouncements propounded by the High Court of Madras in Terrace Estate case and High Court of Kerala in the Harrisons Malayalam case (supra), the Adjudicating Authority while assessing such damage could have imposed lesser amount to what has been prescribed under 32A taking into consideration the facts submitted relating to delayed remittance by the Appellant.”

44. Thereafter the Tribunal, after placing reliance upon the judgment of the Supreme Court in Sterlite Electric Corporation Vs. Regional Provident Fund Commissioner, Haryana reported in 2001 (4) SCC 449 which was relied on by the appellants before it (Respondents herein) regarding the discretion in imposing damages under Section 14B of the EPF Act. Inspiration was drawn from the following passage found



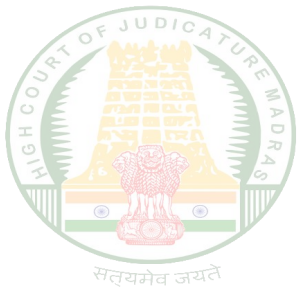
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in the said judgment which is as under:-

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Thereafter, the Tribunal, relying on the Supreme Court's judgment in *Sterlite Electric Corporation v. Regional Provident Fund Commissioner, Haryana*, reported in 2001 (4) SCC 449—cited by the appellants before it (the respondents herein) concerning the discretion in imposing damages under Section 14B of the EPF Act—drew inspiration from the following passage in the said judgment:

“still in assessing the damages it will be necessary for us to take note of the manner in which the amounts of damages have been levied and appropriately consider as to what would be the correct rate of damages to be imposed under Section 14-B of the Act. The statement of calculation prepared by the respondent regarding delay in payments discloses that the respondent has imposed damages at different rates, for example, for the month of July 1976 the rate of damages is 50% whereas the period of default is over month, while in case of December 1976 the damages imposed upon the appellant are at the rate of 20% though the period of delay is over two months, in the case of delay for April 1988 damages imposed are at the rate of 30% though the period of delay is only one month. In certain cases, even for a delay of below 15 days, like October 1977, damages at the rate of 85% have been imposed, while for another period though the delay is for six months 65% damages have been levied. Therefore, it is not possible to discern the rationale adopted by the respondent in the matter of imposition of penalty. In the circumstances, therefore, it would have been appropriate for us to set aside the order and remit the matter to the respondent, but we do not think that such an exercise is necessary after such a long period.”



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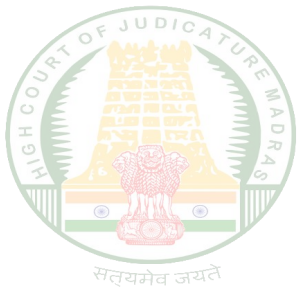
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45. The Tribunal, accepting the said submission in its impugned order, held that the observations made by the Supreme Court should be followed. Consequently, it modified the damages, reducing the percentage in some cases and allowing payment in instalments in others. Even on the quantum of interest levied under Section 7Q, the Tribunal interfered with the said decision and modified the orders of the authority in all the impugned cases, which are now the subject matter of the present writ petitions.

46. There is no dispute that the authorities have the power to impose interest in cases of delayed remittance. Section 7Q provides as follows:

“ 7Q. Interest payable by the employer.—The employer shall be liable to pay simple interest at the rate of twelve per cent. per annum or at such higher rate as may be specified in the Scheme on any amount due from him under this Act from the date on which the amount has become so due till the date of its actual payment: Provided that higher rate of interest specified in the Scheme shall not exceed the lending rate of interest charged by any scheduled bank.

47. The EPF Act also stipulates the imposition of damages under Section 14B, which is as follows:



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“14B. Power to recover damages.—

Where an employer makes default in the payment of any contribution to the Fund , the [Pension Fund or the Insurance Fund or in the transfer of accumulations required to be transferred by him under sub-section (2) of section 15 or sub-section (5) of section 17 or in the payment of any charges payable under any other provision of this Act or of any Scheme or Insurance Scheme or under any of the conditions specified under section 17, the Central Provident Fund Commissioner or such other officer as may be authorised by the Central Government, by notification in the Official Gazette, in this behalf may recover from the employer by way of penalty such damages, not exceeding the amount of arrears, as may be specified in the Scheme:

Provided that before levying and recovering such damages, the employer shall be given a reasonable opportunity of being heard:

Provided further that the Central Board may reduce or waive the damages levied under this section in relation to an establishment which is a sick industrial company and in respect of which a scheme for rehabilitation has been sanctioned by the Board for Industrial and Financial Reconstruction established under section 4 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), subject to such terms and conditions as may be specified in the Scheme.”

48. As different High Courts had taken varying views on the issue of damages and challenges were raised against their imposition, the matter



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was brought before the Supreme Court. In its decision in *Organo*

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Chemical Industries & Anr. v. Union of India, reported in 1979 (4) SCC

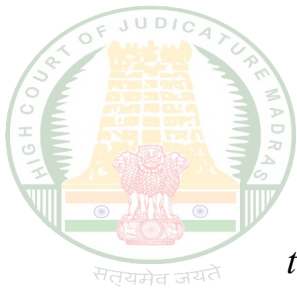
573, the Supreme Court upheld the validity of damages under Section

14B of the EPF Act. While interpreting the provisions of Section 14B,

the Court held as follows:

“The traditional view of damages as meaning actual loss, does not take into account the social content of a provision like s. 14B contained in a socio-economic measure like the Act in question. The word 'damages' has different shades of meaning. It must take its colour and content from its context, and it cannot be read in isolation, nor can s. 14B be read out of context. The very object of the Legislation would be frustrated if the word 'damages' appearing in s. 14B of the Act was not construed to mean penal damages. The imposition of damages u/s. 14B serves a two-fold purpose. It results in damnification and also serves as a deterrent. The predominant object is to penalise, so that an employer may be thwarted or deterred from making any further defaults.

The expression 'damages' occurring in s. 14B is, in substance, a penalty imposed on the employer for the breach of the statutory obligation. The object of imposition of penalty u/s 14B is not merely 'to provide compensation for the employees'. We are clearly of the opinion that the imposition of damages u/s 14B serves both the purposes. It is meant to penalise defaulting employer as also to provide reparation for the amount of loss suffered by the employees. It is not only a warning to employers in general not to commit a breach of the statutory requirements of s. 6, but at the same time it is meant to provide compensation or redress



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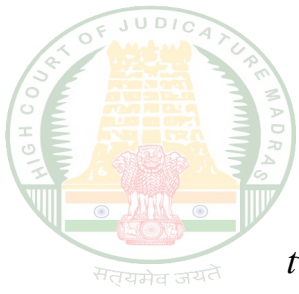
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to the beneficiaries i.e. to recommence the employees for the loss sustained by them. There is nothing in the section to show that the damages must bear relationship to the loss which is caused to the beneficiaries under the Schemes. The word 'damages' in s. 14B is related to the word 'default'. The words used in s. 14B are 'default in the payment of contribution' and, therefore, the word 'default' must be construed in the light of Para 38 of the Scheme which provides that the payment of contribution has got to be made by the 15th of the following month and, therefore, the word 'default' in s. 14B must mean 'failure in performance' or 'failure to act.' At the same time, the imposition of damages u/s 14B is to provide reparation for the amount of loss suffered by the employees.

The construction that we have placed on the word 'damages' appearing in s. 14B of the Act, is in accord with the intent and purpose of the Legislation. It was brought on the statute book by Act 37 of 1953, the objects and reasons so far material, read:-

"There are also certain administrative difficulties to be set right. There is no provision for inspection of exempted factories nor is there any provision for the recovery of dues from such factories. An employer . . . can delay payment of Provident Fund dues without any additional financial liability. No punishment has been laid down for contravention of some of the provisions of the Act." (Emphasis supplied).

The object and purpose of the section is to authorise the Regional Provident Fund Commissioner to impose exemplary or punitive damages and thereby prevent employers from making defaults. The provision for imposition of damages at



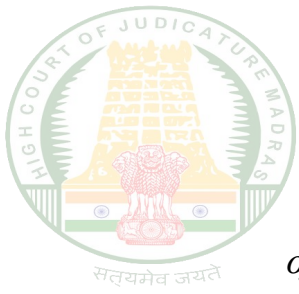
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twentyfive per cent of the amount of arrear, however, did not prove to be effective. Accordingly, but Act 40 of 1973, the words 'not exceeding the amount of arrear' were substituted, for the words 'twenty-five per cent'. The necessity for making this change is brought out in the objects and reasons, a material portion of which reads:-

"STATEMENT OF OBJECTS AND REASONS: (Act 40 of 1973) The working of the Employees' Provident Fund and Family Pension Fund Act, 1952 and the Employees' Provident Fund Scheme has revealed that the present provisions of the Act and the Scheme are not effective in preventing defaults in payment of contributions to the Employees Provident Fund or in recovery of the dues on that account. The result is that the amount of Provident Fund arrears recoverable from the employers has been steadily increasing. In 1959-60, the arrears which amounted to Rs. 3.65 crores, rose to Rs. 5.96 crores as on the 31st March 1967. The arrears stood at Rs. 14.6 crores on 31st March, 1970 and they have been risen to Rs. 20.65 crores as on the 31st March, 1972.

2. The National Commission on Labour has recommended that in order to check the growth of arrears, penalties for defaults in payment of Provident Fund dues should be made more stringent and that the default should be made cognizable. In its 116th Report presented to Parliament in April 1970, the Estimates Committee has endorsed the recommendations made by the National Commission on Labour and has further suggested that Government should consider the feasibility of providing compulsory imprisonment for certain offences under the Act. Accordingly, it is proposed to amend the Act so as to render the penal provisions more stringent and to make defaults cognizable



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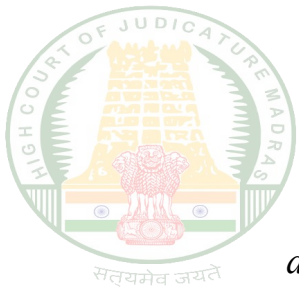
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offences. Provision is also being made for compulsory imprisonment in cases of non-payment of contributions and administration or inspection charges. As recommended by the Estimates Committee, a further provision is being made to enable levy of damages equal to the amount of arrears from a defaulting employer." (Emphasis supplied). Each word, phrase or sentence is to be considered in the light of general purpose of the Act itself. A bare mechanical interpretation of the words devoid of concept or purpose will reduce most of legislation to futility. It is a salutary rule, well established, that the intention of the legislature must be found by reading the statute as a whole."

49. The Supreme Court, in its decision in *Assistant Provident Fund Commissioner, EPFO & Ors. v. The Management of RSL Textiles India Pvt. Ltd.*, reported in 2017 (3) SCC 110, held as follows:

"2. The High Court has taken a view that in the absence of a finding regarding mens rea/actus reus on the part of the employer, action under Section 14B of the Employee's Provident Fund and Miscellaneous Provisions Act, 1952 cannot be sustained,

3. This issue is now wholly covered against the appellants in the decision rendered by this Court in *Mcleod Russel India Limited Vs. Regional Provident Fund Commissioner, Jalpaiguri and Others*, reported in (2014) 15 SCC 263, wherein it has been held in paragraph 11 that ".....the presence or absence of mens rea and/or actus reus would be a



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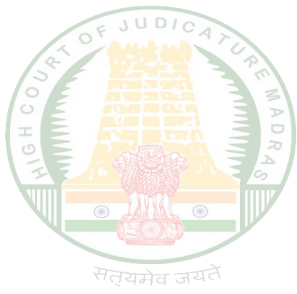
determinative factor in imposing damages under Section 14-B, as also the quantum thereof since it is not inflexible that 100 per cent of the arrears have to be imposed in all the cases. Alternatively stated, if damages have been imposed under Section 14-B, it will be only logical that mens rea and/or actus reus was prevailing at the relevant time."

4. In the impugned Judgment, at paragraph 23, it has been specifically held by the High Court that "In this case, there is no finding rendered by the original authority or the appellate authority with regard to mens rea or actus reus, except saying financial crises cannot be a reason to escape."

50. The Supreme Court, in its decision in *Horticulture Experiment Station, Gonikoppal, Coorg v. Regional Provident Fund Organization*, reported in 2022 (4) SCC 516, held that the levy of damages is an essential consequence of non-payment of EPF dues and that the question of invoking *mens rea* as a necessary element for imposing a penalty does not arise. It is pertinent to refer to the following passage from paragraphs 13 to 17, which states as follows:

"13. Taking note of the exposition of law on the subject, it is well- settled that mens rea or actus reus is not an essential element for imposing penalty or damages for breach of civil obligations and liabilities.

14. The judgment on which the learned counsel for the



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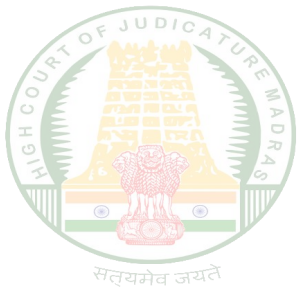


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appellant(s) has placed reliance i.e. Employees State Insurance Corporation(supra), the Division Bench in ignorance of the settled judicial binding precedent of which a detailed reference has been made, while examining the scope and ambit of Section 85B of the Employees State Insurance Corporation Act, 1948 which is pari materia to Section 14B of the Act 1952 placing reliance on the judgment of Division Bench of this Court in Dilip N. Shroff (supra) held that for the breach of civil obligations/liabilities, existence of mens rea or actus reus to be a necessary ingredient for levy of damages and/or the quantum thereof.

15. It may be noticed that Dilip N. Shroff(supra) on which reliance was placed has been overruled by this Court in Union of India and Others v. Dharmendra Textile Processors and others (supra). For the aforesaid reasons, the view expressed by this Court in Employees State Insurance Corporation (supra) may not be of binding precedent on the subject and of no assistance to the appellant(s).

16. Learned counsel for the appellant(s) further placed reliance on the judgment of this Court in Mcleod Russell India Ltd. (supra), wherein the question emerged for consideration was as to whether the damages which has been charged under Section 14B of the Act 1952 would be recoverable jointly or severally from the erstwhile as well as the current managements. At the same time, the judgment relied upon in Assistant Provident Fund Commissioner, EPFO and Another (supra) was decided placing reliance on the judgment of this Court in Mcleod



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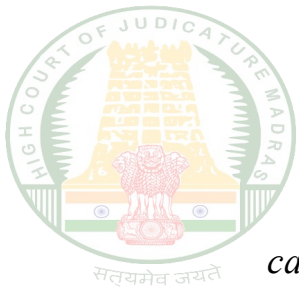
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Russell India Ltd. (supra), which may not be of any assistance to the appellant(s).

17. Taking note of three-Judge Bench judgment of this Court in Union of India and Others v. Dharmendra Textile Processors and others (supra), which is indeed binding on us, we are of the considered view that any default or delay in the payment of EPF contribution by the employer under the Act is a sine qua non for imposition of levy of damages under Section 14B of the Act 1952 and mens rea or actus reus is not an essential element for imposing penalty/damages for breach of civil obligations/liabilities.”

51. Regarding the levy of interest under Section 7Q, damages under Section 14B, and the applicability of Regulation 32A of the EPF Scheme, a Division Bench of this Court, in its decision in *Writ Appeal No. 1382 of 2014* dated 27.06.2023, in *Assistant Provident Fund Commissioner v. Employees Provident Funds Appellate Tribunal & Anr.*, has held as follows:

“8. A reading of Section 7-Q of the EPF Act, 1952 makes it clear that interest will have to be paid by the Employer. The word used in Section 14- B of the Act, 1952 is 'may' and the discretion exercised by the EPFO Authority cannot be mechanically interfered with by the Tribunal, unless reasons given by the Authority are proper. In the light of Section 7L, the Tribunal is empowered to reduce or completely waive the damages that may be passed by the Original Authority. In this



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case, the Tribunal has exercised its discretion and passed the order. We have already made an observation in W.A.No.2349 of 2022 dated 06.06.2023 that after introduction and amendment of Section 7I of the Act, the power of the Tribunal cannot be curtailed, as an appeal can be filed before the Tribunal against the Board's decision. Section 7I of the Act reads as follows:

"7-I. Appeals to Tribunal -

"(1) Any person aggrieved by a notification issued by the Central Government, or an order passed by the Central Government or any authority, under the proviso to sub-section (3), or sub-section (4), of section 1, or section 3, or sub-section (1) of section 7A, or section 7B [except an order rejecting an application for review referred to in sub-section (5) thereof], or section 7C, or section 14B, may prefer an appeal to a Tribunal against such notification or order.

(2) Every appeal under sub-section (1) shall be filed in such form and manner, within such time and be accompanied by such fees, as may be prescribed."

9. It is pertinent to point out here that as per the provisions of the EPF Act, 1952, the interest on the PF contribution is mandatory. At the same time, in respect of levy of damages, it is left to the discretion of the Authority to decide the percentage of amount payable by the Employer. Of course, such percentage will have to be decided based on the facts and circumstances of each case. The schedule rate mentioned in Regulation 32-A is only the Upper Limit and it does not mean that the Authority or the Tribunal will have to mechanically apply it".

52. In light of these legal prepositions, the learned counsel for

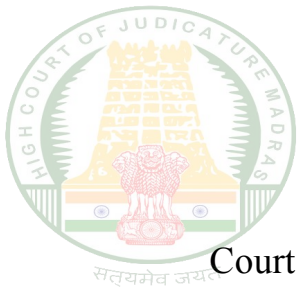


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the EPF Department sought to have the Tribunal's orders set aside, arguing that they exceeded the legal limits applicable to the Appellate Tribunal. However, Mr. P. Thangaraj, learned counsel for the petitioner in *W.P. No. 18099 of 2020*, representing a private party, contended that the portion of the Tribunal's order which declined full relief should be set aside. He argued that the Tribunal exercises power under Section 7L of the EPF Act and not merely under the provisions of the EPF Scheme. Furthermore, he submitted that the petitioner in that writ petition, a cooperative spinning mill, was entitled to relief from this Court, as the Tribunal had failed to grant complete relief. In support of his argument, he relied on two judgments of this Court—one by a Division Bench and another by a Full Bench—which are as follows:

- a. RH 153, Ramanathapuram District Co-operative Spinning Mills Ltd Vs. Central Board of Trustees of Employee' Provident Fund Organisation, W.A.(MD) Nos. 228 to 230 and 365 of 2011 dt. 7.3.2014
- b. Sun Pressings (P) Ltd Vs. The Presiding Officer, Employees' Provident Fund Appellate Tribunal, Core-II, New Delhi & Ors. reported in 2024 (1) Writ LR 801”

53. However, the reasoning put forth by the learned counsel for the EPF Department does not support the exercise of discretion by this



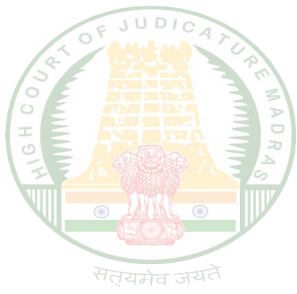
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Court in reducing the levy of interest and damages. If the Tribunal itself lacked such authority, this Court, under Article 226, cannot interfere on the ground of alleged non-exercise of discretion by the Tribunal. In the present case, the Tribunal, in all the impugned orders, applied certain legal principles—many of which were subsequently disapproved—and interfered with the authority's orders without providing any specific justification. In essence, all the impugned orders are based on identical reasoning and do not contain any case-specific rationale. At best, the orders appear mechanical, applying legal principles erroneously. For these reasons, the impugned orders are liable to be set aside.

54. In view of the foregoing discussion, this Court issues the following orders:

Writ Petition Nos. 2343 of 2020, 2359 of 2020, and 2364 of 2020 are dismissed due to lack of service of notice on the contesting respondents. Consequently, all connected WMPs stand dismissed. No costs.

Writ Petition No. 16302 of 2020 is dismissed on the grounds of delay and laches. Consequently, the connected WMP is also



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dismissed. For the reasons stated earlier, the writ petitioner, the Regional Provident Fund Commissioner, is directed to pay Rs.10,000/- as costs to the counsel for the respondent.

Writ Petition Nos. 1239 of 2020, 2362 of 2020, 2366 of 2020, 3503 of 2020, 3978 of 2020, 4589 of 2020, 4615 of 2020, 4944 of 2020, 10934 of 2020, 10946 of 2020, 10948 of 2020, and 18099 of 2020 are allowed. Consequently, all connected WMPs are closed. However, there shall be no order as to costs.

20.03.2025

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Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation : Yes / No

To

1. Employees Provident Fund Appellate Tribunal, Chennai
Central Govt. Industrial Tribunal cum Labour Court,
I floor, 'B' Wing, 26 Haddows Road,
Shastri Bhavan, Chennai – 600006.