

(2002) 03 MAD CK 0131

In the Madras High Court

Case No : Writ Petition No. 15116 of 1994

Elegant Garments

APPELLANT

Vs

The Regional Provident Fund Commissioner, Employee
Provident Fund, Tamil Nadu and Pondicherry, Madras

RESPONDENT

Date of Decision : 05-03-2002

Acts Referred:

Citation : (2002) 03 MAD CK 0131

Hon'ble Judges : A.K. Rajan, J

Bench : Single Bench

Advocate : M. Ramalingam, for the Appellant; P. Narasimhan, SCGSC, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Rajan, J.—The writ petition is for writ of Certiorari. The petitioner entered into an agreement with the Government Handicrafts and Handloom Export Corporation. He employed 121 employees in the year 1981 for making garment exports. He did not pay the Provident Fund as per the law because he was not given a specific code number as required under the Employees Provident Fund Act. Therefore, he filed writ petition 2428/86 for allotment of code number. On 29.4.1991 the writ petition was allowed. Subsequently, the code number was allotted on 18.2.1992. The P.F amount was paid on 24.2.1993. Thereafter, notice has been issued to the petitioner asking to pay damages for the belated payment. The contention of the petitioner is that delay in allotting the code number was the reason for non payment of P.F in time and it is the fault of the respondent in not allotting the code number and that cannot be taken advantage by the respondent to claim damages for belated payment.

2. In the counter it has been stated by the respondent that as per the Provident Fund rules, it is not necessary that one must have a code number to pay the P.F. When code numbers are not allotted, there are two other options for the petitioner to pay the P.F. He could have atleast paid the amount to the principal

employer where the principal employer would have remitted it to the P.F authorities or he could have directly paid the amount in his separate account. When these two options were available as per the rules, it was not done so. Therefore, the petitioner is bound to pay the compensation levied.

3. Inasmuch as there was an option for the petitioner to pay the P.F to the principal employer where separate code number was not allotted to him, the petitioner should have paid the amount to the principal employer. Had it been done, the petitioner would have been absolved from paying any compensation. Admittedly, he has not paid that amount either to the principal employer or remitted the amount directly in his own account. Therefore, there is clear violation of the provisions of the P.F rules. Therefore, the order passed by the respondent claiming compensation cannot be said to be unjustified or illegal. Therefore, the writ petition has no merits and hence, liable to be dismissed and is accordingly dismissed. No costs.

4. It is stated by the petitioner that Rs.1 lakh has been paid out of the arrears at the time of admission. It is more than eight years now since the writ petition has been filed. The amount should have earned interest more than the principal amount by this time. Therefore, no hardship would be caused to the petitioner in paying the balance of arrears. The petitioner is directed to pay the balance amount within a period of four weeks from this date.