

(2023) 06 KL CK 0416

In the High Court Of Kerala

Case No : Writ Petition (C) No.3153 Of 2013

Muslim Association Education Trust Thiruvananthapuram

APPELLANT

Vs

Assistant Provident Fund Commissioner Pattom,
Thiruvananthapuram

RESPONDENT

Date of Decision : 30-06-2023

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 7A,
7A(1)(b), 7B(1)

Citation : (2023) 06 KL CK 0416

Hon'ble Judges : Mohammed Nias. C.P., J

Bench : Single Bench

Advocate : P.Ramakrishnan, Preethi Ramakrishnan, N.N.Sugunapalan, Leo George, P.B.Suresh Kumar, T.N.Girija, Nita N.S

Final Decision : Disposed Of

Judgement

Mohammed Nias. C.P., J

1. Petitioner challenges Ext.P3 order and recovery proceedings initiated, under Ext.P5. Ext.P1 order under Section 7A of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act') was passed on 5.11.2012, determining the amounts due from the employer, the petitioner in respect of M/s.Abdul Rafi Residential School, Nettayam, Vattiyoorkavu, Thiruvananthapuram, as Rs.21,74,811/-. Against Ext.P1 order, the petitioner preferred Ext.P2 review under sub-section (1) of Section 7B of the Act producing documents specifically stating that out of the 78 employees identified by the Enforcement Officer in Nettayam Unit, 47 employees left service.

2. By Ext.P3 order, orders were passed in the review petition, which reads as follows:-

"Your application for review of proceedings under Section 7 A dated 17.12.2012 is examined in detail and arrived at the conclusion that there is no valid grounds

for reviewing the Order under Section 7A. Hence, the same is rejected.

However, some errors are seen crept in due to oversight in the non-enrollment list furnished which is deleted i.e. Sl.No.1 of Tholicode Branch and Sl.No.10,15 & 24 of Azhikode Branch stands deleted. Please take notice that dues in respect of these employees are not accounted in the proceedings under Section 7A(1)(b). The date of joining of Smt.Sidhara at Tholicode branch is on 01.05.2010 and her dues assessed only upto 31.05.2011 at Tholicode branch and from 01.06.2011 to 31.10.2011 assessed at Head Office, Nettayam .”

3. After rejection of Ext.P3 review petition, Ext.P5 demand was raised, which is also challenged in this writ petition.

4. At the time of admission an interim order was granted on condition that the petitioner remits an amount of Rs.10 lakhs towards the demand made, which has been complied with, as is admitted in the counter affidavit filed on behalf of the respondent.

5. It is clear from Ext.P3 that errors have crept in. It is also to be noted that various contentions in Ext.P2 review petition have not been considered while passing Ext.P3 order. Since the petitioner has raised substantial grounds including duplication of employees in the list, I deem it appropriate to direct the respondents to re-consider Ext.P2 review petition with notice to the petitioner and pass fresh orders in accordance with law, within an outer time limit of four months from the date of receipt of a copy of this judgment. To enable the above exercise, Exts.P3 and P5 are quashed.

Till orders as directed above are passed and communicated to the petitioner, all coercive steps against the petitioner will be kept in abeyance.

The writ petition is disposed as above.