(2006) 11 MAD CK 0270

In the Madras High Court

Case No : Writ Appeal No''s. 1818 to 1820 of 2000

The Deputy General Manager, Fertilizer Unit, Neyveli Lignite Corpn. Ltd. and Accounts Manager/Accounts Centre, Fertilizer Factory, Neyveli Lignite Corporation Ltd. — APPELLANT

Vs

K. Rajendran and Others — RESPONDENT

Date of Decision : 06-11-2006

Acts Referred:

Citation : (2006) 11 MAD CK 0270

Hon'ble Judges : S. Tamilvanan, J;P. Sathasivam, J

Bench : Division Bench

Advocate : N.A.K. Sarma, for the Appellant; R. Shivakumar, for La Law for 1st respondent and V. Vibhishnan, for respondents 2 and 3, for the Respondent

Judgement

P. Sathasivam, J.—The above writ appeals are directed against the common order of the learned single Judge dated 06.07.2000 made in W.P. Nos. 15775, 15773 and 15777 of 1993, in and by which, the learned single Judge, after finding that the impugned proceedings do not contain the enclosure of the "extract copy", has allowed all the three writ petitions.

2. Heard the learned Counsel appearing for the appellants and the respondents.

3. The impugned proceedings dated 16.07.1993 are letters which were sent by Neyveli Lignite Corporation Limited to the first respondent in the writ appeals-writ petitioners to the effect that the Regional Provident Fund Commissioner, Trichy, has quantified the Provident Fund dues and requested them to remit the amount immediately, i.e. before 21.07.1993, under intimation to them, failing which the amount due will be recovered from the Fertilizer Factory or from the bills in respect of contract works carried out by them in any of the units of Neyveli Lignite Corporation Limited, Neyveli (hereinafter referred to as the NLC) and the said amount would be sent to the Provident Fund Recovery Officer, Madras. While so the learned single Judge, after considering the said proceedings without going into the merits or rival contentions of the parties and after finding

that the NLC has not enclosed the "extract copy" to the writ petitioners, quashed the impugned proceedings. Aggrieved by the said order, the NLC has filed the above appeals.

4. It is useful to refer the common counter affidavit filed on behalf of respondents 2 and 3 in the writ petition viz., Regional Provident Fund Commissioner, Recovery Office, Madras. Amongst the information furnished therein, paragraphs 4 and 5 are relevant, wherein it is stated that in the 7A enquiry held on 11.07.1991 at Neyveli, neither the principal employer (NLC) nor the contractors (writ petitioners) have produced any records for verification by the Regional Provident Fund Commissioner, Trichy. Therefore, it is stated that the statements furnished by the employees/members have been taken into account and the amount due from the petitioners has been assessed and the proceedings have been issued to the principal employer, and the consequential action taken by the first respondent-NLC is only as per the provisions of the Act/Scheme. With regard to the claim of the petitioners that they were allotted a Sub-code Number and had been remitting the amounts due from 1983 to 1990, in paragraph 5 of the counter affidavit, it is stated that neither the petitioners'' establishment nor the first respondent (NLC Ltd.) viz., the principal employer, had approached the Regional Provident Fund Commissioner for allotment of Sub-code Number. It is further stated that even assuming that the writ petitioners-establishment had been remitting the Provident Fund dues ever since 1983-1990, as stated by them, it was the duty of the writ petitioners to have produced the relevant receipts/challans in token of having remitted the Provident Fund dues along with other records required by the second respondent at the time of the enquiry u/s 7-A conducted by the Regional Provident Fund commissioner, Trichy. The Officer has also denied the claim of the petitioners that they had produced the clearance certificate.

5. The above factual information furnished by respondents 2 and 3 before the learned single Judge has not been controverted by the writ petitioners by filing reply affidavit. The learned single judge has also not considered those aspects. Further, the impugned letters of NLC Ltd., show that the Regional Provident Fund Commissioner, Trichy vide his letters, after enclosing the "extract copy", requested the writ petitioners/contractors to remit the amount, failing which the amount would be recovered from their bills due to them. As rightly pointed out by the learned Counsel appearing for the appellants as well as the learned Counsel appearing for respondents 2 and 3, the Provident Fund Commissioner, Trichy, if the writ petitioners are having a separate Sub-code Number and proof for having remitted the amount, nothing prevented them from placing those particulars before the authority viz., the Regional Provident Fund Commissioner, Trichy. Even after receipt of the impugned proceedings from the NLC, nothing prevented the writ petitioners from approaching the NLC or the authority viz., Regional Provident Fund Commissioner, Trichy, to highlight their stand and we are of the view that the writ petitioners were not justified in approaching this Court to ventilate their grievance. It is made clear that even now, if the writ

petitioners are having sufficient materials regarding the remittance of the GPF dues, they are free to convince the NLC/Regional Provident Fund Commissioner, Trichy by placing those materials.

6. With the above observations, the common order passed by the learned single Judge dated 06.07.2000 made in W.P. Nos. 15775, 15773 and 15777 of 1993 is set aside and the writ appeals are allowed. No costs.