
(1998) 10 MAD CK 0012

In the Madras High Court

Case No : Writ Petition No. 2120 and W.M.P. No. 3048 of 1992

T.V. Sundararn Iyengar and Sons Ltd.

APPELLANT

Vs

Regional Provident Fund Commissioner

RESPONDENT

Date of Decision : 12-10-1998

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 2

Citation : (2000) 3 LLJ 1438

Hon'ble Judges : K. Govindarajan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

K. Govindarajan, J.—The petitioner aggrieved against the order passed by the respondent, dated January 16, 1992, has filed the above writ

petition praying to quash the said order.

2. According to the petitioner, insofar as the Trichy branch is concerned, the persons working there are governed by Standing Orders, which were

certified by Certifying Officer on June 23, 1980. One of the clauses in the Standing Orders which is relevant for the purpose of this case, is as

follows:

Apprentice/learner, is one who is engaged for any period for the purpose of learning any work, with or without stipend or any allowance, as may

be mentioned in the contract of appointment. The apprentices taken under the provisions of the Apprentices Act are not covered by these Standing

Orders.

So, the persons who have been allowed to learn the work, cannot be construed as workmen under the Employees' Provident Funds and

Miscellaneous Provisions Act, 1952. The respondent, in the impugned order, though found that the concerned employees are ""learners"", held that

they cannot be construed as "apprentices" for the purpose of getting exemption u/s 2(f)(ii) of the said Act.

3. It is not disputed before me that apprentices appointed under the Standing Orders, will not come under the purview of the said Act. The only

objection that has been raised by the learned counsel appearing for the respondent on the basis of the impugned order is that the learners cannot

be construed as ""apprentices"". Though the employees have been called as ""learners"" they are on par with the apprentices engaged on the basis of

the Standing Orders. Since they are on par with the apprentices, merely because different nomenclature has been given, it cannot be said that they

cannot be construed as ""apprentices"", when it is admitted that if they are apprentices, they will not come under the purview of the said Act. The

employees who have been appointed as ""learners"" cannot be said other than the ""apprentices"", in view of the Standing Orders in which both of

them have been treated equally.

4. In view of the above findings, the order of the respondent, dated January 16, 1992, cannot be sustained, and hence, it is set aside.

Consequently, the writ petition is allowed. No costs. Writ Miscellaneous Petition No. 3048 of 1992 is closed.