

(2011) 09 MAD CK 0033

In the Madras High Court

Case No : Writ Petition (MD) No. 3810 of 2009 and M.P. (MD) No's. 1 and 2 of 2009

Vaigai Foods

APPELLANT

Vs

The Assistant Provident Fund Commissioner, Employees'
Provident Fund Organization, Sub-Regional Office

RESPONDENT

Date of Decision : 05-09-2011

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 7A

Citation : (2011) 09 MAD CK 0033

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : G. Manivannan, for the Appellant; K. Muralishankar, for the Respondent

Judgement

Vinod K. Sharma, J.—The Petitioner has approached this Court with a prayer, for issuance of a writ, in the nature of certiorari, to quash the

order, dated 11.03.2009, passed by the Respondent, u/s 7-A of the Employees Provident Funds and Miscellaneous Provisions Act 1952 [herein-

after referred to as "Act"].

2. The writ petition against the impugned order is not competent, as the Petitioner has statutory remedy of appeal under the Act.

3. The grievance of the Petitioner is that the order, dated 11.03.2009 is an ex-parte order, as the counsel for the Petitioner was not heard.

4. The undisputed facts, are that the Petitioner had engaged a counsel to represent the Petitioner before the authority in proceeding, u/s 7A of the

Act. The counsel without intimation to the Petitioner did not appear on the date fixed the case, due to boycott of courts.

5. The Petitioner, thereafter, within the stipulated period moved an application for setting aside the ex-parte order giving reasons for non-appearance of the counsel for the Petitioner.

6. It is not disputed that the application moved by the Petitioner has not been disposed of till date. The Respondent, without taking any decision, the application moved by the Petitioner, has initiated recovery proceedings. This has forced the Petitioner to approach this Court. this Court stayed the recovery proceedings.

7. It is not in dispute that till date, the Respondent has failed to decide the application moved by the Petitioner for setting aside the ex-part proceeding.

8. Therefore, this writ petition is disposed of, by directing the Respondent to consider and decide the application moved by the Petitioner for setting aside the ex-parte order passed u/s 7(A), by passing a detailed speaking order, and till the disposal of the application, the order of recovery shall remain stayed. In case of any adverse order, it shall be open to Petitioner to avail his statutory remedy in accordance with law.

9. Consequently, connected Miscellaneous Petitions are closed. No costs.