

WP(MD)No.2328 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.2328 of 2022

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Regional Office, No.1,
Lady Doak College Road,
Chokkukulam, Madurai 625 002.

...Petitioner

Vs

1.M/s.N.A.Manjammal Polytechnic College,
MRK Post, Rajapalayam Via,
Virudhunagar District – 626 110.

2.The Presiding Officer,
Employees Provident Fund Appellate Tribunal,
CGIT cum Labour Court,
Chennai – 600 006.

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records pertaining to the the impugned order of the 2nd respondent, ie.,CGIT cum EPF Appellate Tribunal, Chennai in EPFA 102/2018 ATA No.919(3)/2015 dated 15.11.2021 and quash the same by confirming the order passed by the Assistant Provident Fund Commissioner, Madurai under Section 14B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952



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vide his proceedings No.TN/RO/MDU/91101/Circl-9/PDC/LD/2014
dated 23.12.2014.

For Petitioner : Mr.A.John Xavier
For Respondent : Mr.Albert Jesudoss
No.1
For Respondent : No Appearance
No.2

ORDER

The Employees Provident Fund Authority has filed this writ petition as against the orders passed by the EPF Appellate Tribunal, Chennai in EPFA 102/2018 ATA No.919(3)/2015 dated 15.11.2021. The petitioner EPF authority has initiated proceedings as against the 1st respondent Polytechnic College for belated payment of EPF contribution for the period from January 1998 to October 2012. Therefore, the EPF authority after providing opportunity to the 1st respondent has passed an order dated 23.02.2014 under Section 14B of the Employees' Provident Fund and Miscellaneous Provident Funds Act [in short 'the EPF Act'] fixing the damages as Rs.17,45,917/- . This order passed under Section 14B of the EPF Act was challenged before the EPF appellate tribunal and the EPF appellate tribunal has partly allowed the appeal by reducing the damages to 30% on the ground that



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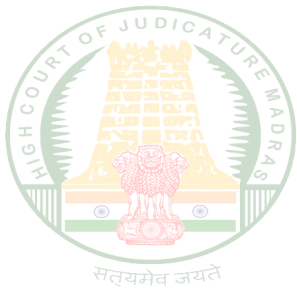
there was no *actus reus* or *mens rea* for the belated payment on the part of the 1st respondent.

2.This court considered the rival submissions made and perused the materials placed on record.

3.The necessity of *mens rea* and *actus reus* has already been declared as not essential element for imposing penalty or damages for breach of civil obligations and liabilities, by the Hon'ble Supreme Court in ***Horticulture Experiment Station Gonikoppal Vs Regional Provident Fund Organisation*** reported in (2022) 2 SCC 516 as under:

“15.Taking note of the exposition of law on the subject, it is well settled that mens rea or actus reus is not an essential element for imposing penalty or damages for breach of civil obligations and liabilities.

19.Taking note of the three-Judge Bench judgment of this Court in Union of India Vs Dharmendra Textile Processors, which is indeed binding on us, we are of the considered view that any default or delay in the payment of EPF contribution by the employer under the Act is a



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sine qua non for imposition of levy of damages under Section 14-B of the 1952 Act and mens rea or actus reus is not an essential element for imposing penalty / damages for breach of civil obligations / liabilities.”

4. In view of the above decision, the impugned order passed by the EPF appellate tribunal is set aside with liberty to the 1st respondent establishment to pay the damages levied by the EPF authority in six equal monthly installments. In the result this petition is allowed. No costs.

14.10.2025

DSK

To

- 1.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Regional Office, No.1, Lady Doak College Road,
Chokkukulam, Madurai 625 002.
- 2.The Presiding Officer,
Employees Provident Fund Appellate Tribunal,
CGIT cum Labour Court, Chennai – 600 006.
- 3.M/s.Sun (Tamil Nadu) Security Management,
Service Pvt Ltd Plot No.30,
State Bank Officers, II Colony By Pass Road,
Madurai -10.



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B.PUGALENDHI.J.,

DSK

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