

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 3633 of 2005 (G)

PETITIONER(S):

**SHYLA RAJENDRAN
PROPRIETRIX, HOTEL NEW ANANDAMANDIRAM, TEMPLE ROAD
KOTTAYAM.**

**BY ADVS.SRI.DINESH R.SHENOY
SRI.G.HARIKRISHNAN (TRIPUNITHURA)
SRI.JOJO GEORGE
SRI.K.J.SEBASTIAN**

RESPONDENT(S):

- 1. UNION OF INDIA
REP. BY ITS SECRETARY, MINISTRY OF LABOUR
SHRAM SHAKTI BHAVAN, NEW DELHI.**
- 2. THE CENTRAL PROVIDENT FUND COMMISSIONER,
EMPLOYEES PROVIDENT FUND ORGANISATION, HEAD OFFICE
14 BHIKAJI CAMA PLACE, NEW DELHI-110 066.**
- 3. THE REGIONAL PROVIDENT FUND COMMISSIONER
EMPLOYEES PROVIDENT FUND ORGANISATION
SUB REGIONAL OFFICE, CHALAKUZHAY BUILDING
KOTTAYAM-686 001.**
- 4. THE EPF APPELLATE TRIBUNAL,
NEW DELHI, REP. BY THE PRESIDING OFFICER.**

**R,R2,R3 BY ADV. SRI.N.N. SUGUNAPALAN, SC, P.F.
R BY SRI.JOHN VARGHESE, ASSISTANT SG
R BY SRI. N.SIJU
R BY SRI. N. NAGARESH, ASGI**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

RESPONDENTS EXHIBITS:

- EXT.P1 COPY OF THE NEWS PAPER RELEASE GIVEN BY THE 2ND
RESPONDENT.
- EXT.P2 COPY OF THE PROCEEDINGS OF THE 3RD RESPONDENT
DATED 19.01.2004.
- EXT.P3 COPY OF THE PROCEEDINGS OF THE 3RD RESPONDENT DATED
15.01.04.
- EXT.P4 COPY OF THE REPRESENTATION DATED 4.2.04 SUBMITTED BY THE
PETITIONER BEFORE THE 3RD RESPONDENT.
- EXT. P5 COPY OF THE LETTER DATED 17.2.04 ISSUED BY THE 3RD
RESPONDENT.
- EXT.P6 COPY OF THE ORDER DATED 19.2.04 PASSED BY THIS HONOURABLE
COURT IN W.P.(C) NO. 5932/04.
- EXT.P7 COPY OF CIRCULAR NO. PG CELL/3(3)86/DAM DATED 29.5.90.
- EXT.P8 COPY OF THE JUDGMENT DTD.1.10.04 PASSED BY THIS HON'BLE
COURT IN W.P.(C) NO.11925/04.
- EXT.P9 COPY OF THE ORDER DATED 31.12.04 PASSED BY THE 4TH
RESPONDENT.

RESPONDENTS EXHIBITS: NIL

// TRUE COPY //

P.A to Judge

SB

K. VINOD CHANDRAN, J.
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W.P.(C) No.3633 of 2005 - G
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Dated this the 31st day of March, 2015

J U D G M E N T

The petitioner is aggrieved with Exts.P2 and P3 orders passed by the Employees' Provident Fund Organisation under Sections 7Q and 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for brevity, 'EPF & MP Act'). Admittedly, the petitioner had filed an appeal before the E.P.F Appellate Tribunal, New Delhi, against both the said orders. Herein, what is challenged is the interim order passed in the appeal at Ext.P9.

2. Ext.P9 indicates that, the appeal against Section 7Q of the EPF & MP Act was declined to be considered by the Tribunal. This Court is of the opinion that, there is no infirmity in such decision since, the Hon'ble Supreme Court has in **M/s. Arcot Textile Mills Ltd. v. Regional Provident Fund Commissioner and others [AIR 2014 295]** considered the issue and found that the

levy under Section 7Q of the EPF & MP Act is not appealable and the levy of interest being compensatory in nature, is automatic; on default being committed.

3. The further directions in Ext.P9 is a stay of the demand under Section 7Q and 14B of the EPF & MP Act on condition of the appellant remitting 50% of the amounts demanded. In the writ petition also an interim order was granted, wherein, the petitioner was permitted to satisfy the said condition by depositing Rs.5,000/- per month. Nothing is discernible as to what transpired after Ext.P9, or whether the interim order was complied with. The petitioner would have to subject himself to the orders passed by the appellate Tribunal in the appeal filed before the Tribunal as ATA.No.986(7)/2004.

With the above observations, the writ petition would stand closed.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge