

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

WA.No. 1591 of 2015 () IN WP(C).9566/2014

**AGAINST THE ORDER/JUDGMENT IN WP(C) 9566/2014 of HIGH COURT OF KERALA
DATED 21-11-2014**

APPELLANTS:

- 1. THE REGIONAL PROVIDENT FUND COMMISSIONER(PENSION)
EMPLOYEES PROVIDENT FUND ORGANISATION
REGIONAL OFFICE, BHAVISHYANIDHI BHAVAN
PATTON PALACE, THIRUVANANTHAPURAM 695004**
- 2. THE ASSISTANT PROVIDENT FUND COMMISSIONER
EMPLOYEES PROVIDENT FUND ORGANISATION , (EPFO)
SUB REGIONAL OFFICE, V K COMPLEX,
FORT ROAD,
KANNUR - 670 001**

**BY ADVS.SRI.N.N.SUGUNAPALAN (SR.)
SMT.T.N.GIRIJA, SC,EPF ORGANISATION**

RESPONDENT(S):

- 1. RAVINDRANADHAN K
INDEEVARAM, THANDIYIL HOUSE, PAYYANNUR POST
VIA - VADAKKEKADAVU, THRISSUR 679 562**
- 2. THE REGIONAL AGRO INDUSTRIAL DEVELOPMENT
CO-OPERATIVE OF KERALA LTD, (RAIDCO KERALA LTD),
SPCA ROAD, KANNUR - 670 002**

**R2 BY ADV. SRI.M.SASINDRAN
R1 BY SRI.TITUS MANI VETOM**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 07-09-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

kkj

**K.SURENDRA MOHAN &
SHAJI P. CHALY, JJ.**

W.A. No.1591 of 2015

Dated this the 7th day of September, 2015

J U D G M E N T

Surendra Mohan, J.

The appellants challenge the judgment of the learned Single Judge dated 21.11.2014 in W.P.(C) No.9566 of 2014.

2. The first respondent, an employee of the 2nd respondent, had filed the Writ Petition seeking inter alia, a direction to the appellants to permit him to enjoy higher pensionary benefits as per the Employees Pension Scheme by computing pension contributions on the basis of his actual pay in excess of the ceiling limit and transferring contributions computed on the said basis to the Pension Fund. The first respondent is an employee of the second respondent. He is covered under the provisions of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 and the Employees Pension Scheme, 1995.

3. At the time of promulgation of the Pension

Scheme, there was a ceiling limit on the maximum pensionable salary, which was ₹6,500/- per month. Therefore, contributions towards the Pension fund were payable only on the said amount even in cases where the actual salary drawn by an employee was much higher. The said restriction has subsequently been removed.

4. In the present case, it is admitted that contributions at the rate of 12% of the salary of the employee together with an equal contribution of the employer, have been remitted to the Employees Provident Fund Organisation. However, only contributions computed at the rate of 8.33% of the maximum salary of ₹6,500/- have been remitted to the Employees Pension Fund. The balance amount has been retained by the Employees Provident Fund Organisation. The above action according to the first respondent is not authorised by the Statute. The cut off date of 01.12.2004 stipulated for extending the benefits of removal of the ceiling limit on salary is also attacked as

arbitrary. The learned Single Judge has found in favour of the first respondent on all the points and has allowed the Writ Petition.

5. Heard. The learned Single Judge has allowed the Writ Petition following the dictum of a Division Bench of this Court in another Writ Appeal. We notice that the issue has been conclusively decided by this Court in judgment dated 05.03.2013 in W.A.No.1137 of 2012, judgment dated 16.10.2014 in W.A.No.1442 of 2014 and judgment dated 07.01.2015 in W.A.No.1956 of 2014. A copy of judgment dated 06.08.2015 in W.A.No.1587 of 2015 has also been placed before us. It is also pointed out that the issue is pending consideration of the Apex Court in S.L.P Nos.16867 of 2013 and 7075 of 2014 besides, other connected cases at the instance of the appellants herein.

In view of the binding precedents of this Court on the point, we find no infirmity in the judgment appealed against. We note that the learned Single Judge has taken

W.A. No.1591 of 2015

care to make his orders and directions subject to the decision of the Apex Court in the matter. Therefore, no further directions are necessary to be issued in the said regard also.

In view of the above, this Writ Appeal is dismissed.

Sd/-
K.SURENDRA MOHAN,
JUDGE

Sd/-
SHAJI P.CHALY
JUDGE

kkj