

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

WA.No. 1963 of 2015 () IN WP(C).21601/2014

AGAINST THE ORDER/JUDGMENT IN WP(C) 21601/2014 of HIGH COURT OF
KERALA DATED 27-10-2014

APPELLANTS/RESPONDENTS 1 TO 3:

1. UNION OF INDIA (UOI)
REPRESENTED BY THE SECRETARY TO GOVT. OF INDIA
MINISTRY OF LABOUR & EMPLOYMENT
DEPARTMENT OF EMPLOYMENT, NEW DELHI-110 001.

2. REGIONAL PROVIDENT FUND COMMISSIONER
EMPLOYEES PROVIDENT FUND ORGANISATION (EPFO)
MINISTRY OF LABOUR, GOVERNMENT OF INDIA, PATTO
THIRUVANANTHAPURAM, PIN-695 004.

3. PROVIDENT FUND COMMISSIONER,
SUB REGIONAL OFFICE
EMPLOYEES PROVIDENT FUND ORGANISATION (EPFO)
BHAVISHANIDHI BHAVAN, KALOOR, ERNAKULAM
PIN-682017.

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

RESPONDENT(S)/PETITIONERS AND 4TH RESPONDENT.:

1. N. SASIDHARAN
SHOWROOM MANAGER GRADE II
KERALA STATE CO-OPERATIVE COIR MARKETING
FEDERATION LTD.NO.679
ALAPPUZHA, RESIDING AT MOOZHITHOTTATHU VEEDU
ALAMCODE (VIA), THIRUVANANTHAPURAM-695 012.

2. KAIRALI S.,
UD TYPIST
KERALA STATE CO-OPERATIVE COIR MARKETING
FEDERATION LTD.NO.679
ALAPPUZHA, RESIDING AT PAVELA HOUSE, KARUNNILACODE
EDAVA PO, VARKALA-695 311.

3. P.BABY
WATCHMAN
KERALA COIR MARKETING FEDERATION LTD.NO.679
ALAPPUZHA, RESIDING AT ANIZHAM, KURUMANDAL
PARAVUR, KOLLAM.

4. BEENA R.
SHOWROOM MANAGER GRADE II
KERALA COIR MARKETING FEDERATION LTD.NO.679
ALAPPUZHA, RESIDING AT KAVADIVILA (H), NEERAVIL
PERINAD PO, KOLLAM.

5. K.VIJAYAMOHANAN
SHOWROOM MANAGER GRADE II
KERALA COIR MARKETING FEDERATION LTD.NO.679
MAVELIKKARA, ALAPPUZHA, RESIDING AT PUKAYILATHUNDIL
KANDALLOOR SOUTH PO, (VIA) KAYAMKULAM.

6. KISHORE S.
SUPERVISOR
KERALA COIR MARKETING FEDERATION LTD.NO.679
ALAPPUZHA, RESIDING AT SREEVILS, VADAKKAL PO
ALLEPPEY-3.

7. V.ASOKAN
CLEANER, KERALA COIR MARKETING FEDERATION LTD.NO.679
ALAPPUZHA, RESIDING AT A.R.NILAYAM, MUTHUKULAM NORTH
ALAPPUZHA.

8. A.ARJUNANCHETTIAR,
SENIOR ASSISTANT
KERALA COIR MARKETING FEDERATION LTD.NO.679
ALAPPUZHA, RESIDING AT ARJUN NIVAS, YESORAM NAGAR
EROOR SOUTH PO, THRIPPUNITHURA, ERNAKULAM.

9. AFASALUDDIN
UD CLERK (RETIRED)
KERALA COIR MARKETING FEDERATION LTD.NO.679
ALAPPUZHA, RESIDING AT PEROORKIZHAKKATHIL
KAREELAKULANGARA PO, KAYAMKULAM, ALAPPUZHA.

10. MERCY LOUIS
JUNIOR SUPERINTENDENT (RETIRED)
KERALA COIR MARKETING FEDERATION LTD.NO.679
ALAPPUZHA, RESIDING AT CHERIYATHUNDATHIL
ARATTUVAZY WARD, ALAPPUZHA-688 007.

11. T.R.VIJAYAKUMAR
REGIONAL OFFICER IN CHARGE (RETIRED) KERALA COIR MARKETING
FEDERATION LTD.NO.679
ALAPPUZHA, RESIDING AT MADATHIL HOUSE, UZHUA
PATTANAKKAD PO, CHERTHALA, ALAPPUZHA-686 531.

12. V.THILAKARAJAN
ATTENDER (RETIRED) KERALA COIR MARKETING
FEDERATION LTD.NO.679
ALAPPUZHA, RESIDING AT APPAKKARAMPARAMBIL
PUNNAPPRA PO, ALAPPUZHA-688 004.

13. MANAGING DIRECTOR,
KERALA COIR MARKETING FEDERATION (COIRFED)
P.B.NO.4616, ALAPPUZHA-688 012.

R1 TO 12 BY SRI.P.N.MOHANAN
R13 BY SRI.JOBY CYRIAC, SC, COIRFED

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
16-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.A. NO.1963 OF 2015

Dated this the 16th September, 2015.

JUDGMENT

Surendra Mohan, J.

The appellants challenge the judgment of the learned Single Judge dated 27.10.2014 in W.P.(C) No.21601 of 2014.

2. Respondents 1 to 12, employees of the 13th respondent, had filed the Writ Petition seeking inter alia, a direction to the appellants to permit them to enjoy higher pensionary benefits as per the Employees Pension Scheme by computing pension contributions on the basis of their actual pay in excess of the ceiling limit and transferring contributions computed on the said basis to the Pension Fund. Respondents 1 to 12 being employees of the 13th respondent are 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 employees 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 respondents 1 to 12 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 respondents 1 to 12 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 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

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