

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 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

WA.No. 2076 of 2015 () IN WP(C).5446/2015

AGAINST THE ORDER/JUDGMENT IN WP(C) 5446/2015 of HIGH COURT OF KERALA
DATED 20-02-2015

APPELLANT(S)/RESPONDENTS 1 TO 3:

1. UNION OF INDIA
REPRESENTED BY THE SECRETARY TO GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND DEPARTMENT OF EMPLOYMENT
NEW DELHI - 110 001.

2. REGIONAL PROVIDENT FUND COMMISSIONER
EMPLOYEES PROVIDENT FUND ORGANISATION (EPFO)
BHAVISHANIDHI BHAVAN, PATTOM PALACE
THIRUVANANTHAPURAM - 695 004.

3. ASSISTANT PROVIDENT FUND COMMISSIONER,
SUB REGIONAL OFFICE
EMPLOYEES PROVIDENT FUND ORGANISATION (EPFO)
BHAVISHYANIDHI BHAVAN, KOLLAM - 691 001.

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

RESPONDENT(S)/PETITIONERS & 4TH RESPONDENT:

1. V.JOHN VARGHESE
VALLAYIL VEEDU, ALAMCHERY, EROOR P.O.
KOLLAM - 691 312.

2. C. REMESHAN
DEVIKRIPA, NEAR CHAMUNDI TEMPLE, PALLIPURAM P.O.
THIRUVANANTHAPURAM - 695316.

3. L. THOMASKUTTY
NIRAPPUVILA VEEDU, PODIYATTUVILA P.O., VALAKOM
KOLLAM - 691 532.

4. ABDUL KARIM
S.S.VILLA, NETHAJI NAGAR, H. NO. 58
KAVANAD P.O., KOLLAM - 691 003.

5. S. UDAYAKUMARI DEVI
PALATHINKEEZHIL, CHIRAKKADAVAM, KAYAMKULAM P.O.
ALAPPUZHA.

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6. S.N. RAJENDRAN UNNITHAN
SREESAILAM, MALACKAL P.O., MADAVOOR
PALLICKAL, THIRUVANANTHAPURAM - 695 602.

7. V. PARAMESWARAN PILLAI,
KARALI MANAYIL, PANMANA P.O., CHAVARA
KOLLAM.

8. G. CHANDRAN
KOTTAYI THARAYIL, ERUVA EAST P.O., KAYAMKULAM
ALAPPUZHA.

9. M. HARIDASAN
ARUN NIVAS, KANNIMOOLA THEKKEMATHILIL P.O.
KOLLAM - 691 601.

10. G. SATHYASEELAN
SATHYA NILAYAM, KOTTUKAL P.O., ANCHAL VIA
KOLLAM.

11. K. MOHANACHANDRAN
SIMI BHAVAN, OYOOR, KARINGANNOOR P.O.
KOTTARAKKARA, KOLLAM.

12. E. JAMALUDHEEN KUNJU
ELINJICKAL THEKKETHIL, CHAVARA BRIDGE P.O., KOLLAM.

13. G. RAJENDRAN
REMIYA BHAVAN, PUTHUKKADU, CHAVARA P.O.
KOLLAM.

14. LEKHA V.
MANNUR KANIYIL, MOTTACKAL, THEVALAKKARA
KOLLAM.

15. M. MADAN PILLAI
PRIYADARSINI, SUBSTATION LANE, PAPPADU
NETTAYAM P.O., THIRUVANANTHAPURAM-695 013.

16. THIRUVANANTHAPURAM REGIONAL CO-OPERATIVE
MILK PRODUCERS UNION
REPRESENTED BY ITS MANAGING DIRECTOR, KSHEERA BHAVAN
PATTOM, THIRUVANANTHAPURAM - 695 004.

R BY SMT.LATHA KRISHNAN
R BY SRI. P.N.MOHANAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
30-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

kkj

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

W.A. No.2076 of 2015

Dated this the 30th 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 20.02.2015 in W.P.(C) No.5446 of 2015.

2. Respondents 1 to 15, retired employees of the 16th 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 15 are retired employees of the 16th respondent. They were 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 3 is not authorised by the Statute. The cut off date of 01.12.2004 stipulated for extending the benefits of removal

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of the ceiling limit on salary is also attacked as arbitrary. The learned Single Judge has found in favour of respondents 1 to 15 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

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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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PA to Judge