

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

WA.No. 2078 of 2015 () IN WP(C).31844/2014

AGAINST THE ORDER/JUDGMENT IN WP(C) 31844/2014 OF THIS COURT

APPAPPELLANTS/RESPONDENTS 1 TO 4:-:

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

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

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

4. REGIONAL PROVIDENT FUND COMMISSIONER
EMPLOYEES PROVIDENT FUND ORGANISATION (EPFO)
SUB REGIONAL OFFICE, ADITYA SABARI TOWER
POST OFFICE ROAD, THIRUNNAKKARA, KOTTAYAM - 686 001.

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

RESPONDENTS/PETITIONERS AND 5TH RESPONDENT:-:

1. N.THULASI DAS
CHAITANYA, KANNAMURI LANCE, THOPPIL ROAD
EDAPPALLY, ERNAKULAM - 682 024.

2. C.K.PURUSHOTHAMAN
'KRISHNAKRIPA', CHERRAMBIL HOUSE, AMBALLOOR.P.O.
KANJIRAMATTOM, ERNAKULAM - 682 315.

3. A.R.SUBRAMANIAN
AJAY BHAVAN, MNRA 209, EROOR(N).P.O.
TRIPUNITHURA, ERNAKULAM - 682 306.

4. USHAMMA LAWRENCE
MUTTUNGAL HOUSE, JUSTICE LANE, MAJOR ROAD
VYTTILA.

5. P.O.VARGHESE
PAMPOTTIL HOUSE, KODUMPURKARA, KOKKAPPALLY.P.O.
ERNAKULAM.

6. RENJITH KUMAR K.R.
KOOVAKKOTTU HOUSE, EROOR.P.O., NORTH
TRIPUNITHURA.

7. K.R.RADHAKRISHNAN
KUNNAPPILLY HOUSE, CONVENT ROAD, KANIMANGALAM
NEDUPUZHA.P.O., THRISSUR.

8. P.I.MADHAVAN
ARUNODAYAM HOUSE, PALLANGATTUMUGAL, VADAKODE.P.O.
KANGARAPADY - 682 021.

9. SHAJI K.N.
KRISHNAVILAS, THURAVOOR SOUTH.P.O.
CHERTHALA - 688 532.

10. N.C.SHYLAJA
KAKKATHARA HOUSE, VALIAPULLARA, PALLURUTHY
COCHIN - 6.

11. JALAJA T.S
'AKSHAYA' MEDAKAL, ELOOR SOUTH
UDYOGAMANDAL.P.O. - 683 501, ERNAKULAM.

12. M.U.DILIPKUMAR
MADHUKAPPALLY HOUSE, EDAPPALLY.P.O., KOONAMTHAI.

13. UTHAMAN P.A.
PARUTHIVELIL, C.P.NAGAR ROAD, H.NO.123
EDAPPALLY NORTH.P.O., KOCHI - 682 024.

14. RATHAN M.P.
MUTHATTU HOUSE, KUMBALANGI.P.O., KOCHI - 682 007.

15. M.U.SUSEELA
KARTHIKA, PUTHUKKALAVATTOM TEMPLE ROAD
ELAMAKKARA.P.O., KOCHI - 28.

16. N.P.VIJAYAN
NJARUVELIL HOUSE, KANGARAPADY.P.O., 682 021.

17. ABRAHAM P.T.
PULITHUCKIL HOUSE, UDAMPANNOOR.P.O.
THODUPUZHA - 685 595.

18. RAJAGOPAL M.K.
NANDANA VADAKKENIRAPPU.P.O., NJEEZHOOOR
KOTTAYAM - 686 612.

19. PRASANNAKUMAR M.K.
PREMNIVAS, GANDHI NAGAR.P.O., KOTTAYAM - 686 008.

20. T.K.RAJENDRAN
THATTAMPARAMBIL, MARIAPPALLY.P.O., KOTTAYAM - 686 013.

21. P.M.RAJAPPAN NAIR
MADATHIPARAMBIL, PEROOR.P.O., ETTUMANNOOR(VIA)
KOTTAYAM - 686 637.

22. C.K.PURUSHOTHAMAN NAIR
RAHUL BHAVAN, CHANNANIKAD.P.O., KOTTAYAM - 686 533.

23. GOPINATHAN NAIR M.V.
'SREERAGAM', KADAPPOOR, VATTUKULAM.P.O.
VAYALA VIA, KOTTAYAM - 686 785.

24. GOPIKUTTAN P.
MANOJ BHAVANAM (HARISREE), KANAKKARI.P.O., KANAKKARI
KOTTAYAM - 686 632.

25. SUDHARMONY K.P.
KALAPPURAKKAL HOUSE, ALANGAD, KONGORPPILLY.P.O.
ERNAKULAM.

26. SRI.BABY PAUL
VADAKKECHALIL HOUSE, PARA JUNCTION, MUDAKKARAIAKARA
KURUPPAMPADY, ERNAKULAM - 683 545.

27. SURENDRAN T.K.
CHITHIRA NIVAS, THONIPPARAMBIL HOUSE, VATTEKUNNAM
EDAPPALLY - 682 024.

28. SUBASTIAN A.J.
ANTHIKKATTU HOUSE, PASS ROAD, NEAR TOG
KALAMASSERY - 683 104.

29. M.K.ANANDAN
KUNDEPADAM HOUSE, PUTHUPALLIPRAM, CHANGAMPUZHA NAGAR
KOCHI - 682 033.

30. SAMUEL VARGHESE
PATHALIL, PUTHENPARAMBIL, CHANGAMPUZHA NAGAR
KOCHI - 682 033.

31. ARAVINDAKSHAN K.P.
KALATHIL HOUSE, THURUTHIPURAM
MOTHAKUNNAM.P.O. - 683 516.

32. SAMUEL K.MATHEW
5/557, KADACKEL HOUSE, STAR LANE
UNICHIRA, THRIKKAKARA.P.O. - 682 021.

33. M.K.ABDUL MAJEED
NORTH MALIYAM VEED, OPP: EDAPPALLY JAMATHAUDITORIUM
ECRA-99, R.S.ROAD, EDAPPALLY
KOCHI - 682 024.

34. ASOK KUMAR C.N.
SAYOOJYA, KARAKKATTU STREET, KANNAMKULANGARA
N.PARAVOOR - 683 513.

35. ERNAKULAM REGIONAL CO-OPERATIVE MILK
PRODUCERS UNION LTD.
REPRESENTED BY ITS MANAGING DIRECTOR, EDAPPALLY.P.O.
ERNAKULAM - 682 024.

R BY SRI.P.N.MOHANAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
29-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.A. NO.2078 OF 2015

Dated this the 29th September, 2015.

JUDGMENT

Surendra Mohan, J.

The appellants challenge the judgment of the learned Single Judge dated 28.11.2014 in W.P.(C) No.31844 of 2014.

2. Respondents 1 to 34, employees of the 35th 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 34 are employees of the 35th

respondent. They 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 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 respondents

1 to 34 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 34 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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/True copy/

