

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No. 9684 of 2005 (C)

PETITIONER:

THE HINDUSTAN ORGANIC CHEMICALS LTD.
AMBALAMUGAL ERNAKULAM, REPRESENTED BY ITS
CHIEF PERSONNEL & ADMINISTRATION MANAGER.

BY ADVS. SRI.U.K.RAMAKRISHNAN (SR.)
SRI.P.V.LOHITHAKSHAN
SMT.P.VIJAYAMMA
SRI.V.KRISHNA MENON
SRI.DEVIDAS.U.K
SRI.SANDEEP.E.

RESPONDENTS:

1. THE REGUIONAL PROVIDENT FUND
COMMISSIONER, EMPLOYEES PROVIDENT FUND ORGANISATION,
SUB REGIONAL OFFICE, BAHVISHYA NIDHI BHAVAN
KALOOR KOCHI.
2. THE ASSISTANT PROVIDENT FUND
COMMISSIONER, EMPLOYEES PROVIDENT FUND ORGANISATION
SUB REGIONAL OFFICE, BHAVISHYA NIDHI BHAVAN, KALOOR
KOCHI.

BY SRI.S.GOPAKUMARAN NAIR, SC, P.F.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS

EXT.P1:- TRUE COPY OF ORDER DATED 27/02/96 OF THIS HON'BLE COURT IN CMP NO.5650 OF 1996 IN OP NO.3250 OF 1996.

EXT.P2:- TRUE COPY OF ORDER DATED 22/08/96 IN CMP NO.5650 OF 1996 IN OP NO.3250 OF 1996.

EXT.P3:- TRUE COPY OF ORDER DATED 30/12/97 IN CMP 41220/97 IN OP NO.23043/97.

EXT.P4:- TRUE COPY OF ORDER DATED 05/8/97 OF THIS HONOURABLE COURT IN CMP NO.5650/96 IN OP NO.3250/96.

EXT.P5:- TRUE COPY OF THE JUDGMENT DATED 01/4/98 IN OP NO.3250/96.

EXT.P6:- TRUE COPY OF JUDGMENT DATED 17/1/01 IN OP NO.23043/97 OF THE HIGH COURT OF KERALA.

EXT.P7:- TRUE COPY OF SHOW CAUSE NOTICE NO.KR/KC/13212/PENAL DAMAGES/(2)/2001/PH/4766 DATED 5.3.01 ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER.

EXT.P8:- TRUE COPY OF THE REPLY STATEMENT DATED 27/3/01 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.

EXT.P9:- TRUE COPY OF NOTICE NO.KR/KC/13212/DAMAGES CELL/T(2)/2004/8912 DATED 19/08/2004 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.

EXT.P10:- TRUE COPY OF PROCEEDINGS NO.KR/KC/13212-A/PD/B/T(2)/2005/12471 DATED 4/2/05 ISSUED by the SECOND RESPONDENT TO THE PETITIONER.

EXT.P11:- TRUE COPY OF PROCEEDINGS NO.KR/KC/13212-A/DAMAGES CELL/7Q/T(2)/2005/12471 DATED 04/2/05 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.

EXT.P12:- TRUE COPY OF THE BALANCE SHEET AND PROFIT AND LOSS ACCOUNT OF HOCL FOR THE YEAR 2003-2004.

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BABU MATHEW P. JOSEPH, J.

W.P.(C) No.9684 of 2005

Dated this the 6th day of March, 2015

JUDGMENT

This writ petition has been filed for declaring that the petitioner is not liable to pay damages or interest for the alleged delay in remitting contribution payable under the Employees Pension Scheme, 1995, for the period 11/1995 to 1/2000 and for other reliefs. This Court passed an interim order in this writ petition on 23-03-2005 enabling the petitioner to prefer an appeal before the Statutory Tribunal.

2. Learned counsel for the petitioner submits that the petitioner has preferred an appeal thereafter before the Statutory Tribunal. That appeal was subsequently dismissed by the Statutory Tribunal. Challenging that dismissal order, the petitioner has preferred W.P.(C) No.12165 of 2007 before this Court. That was also disposed of by this Court as per judgment dated 23-12-2009. As per that judgment, the liability of the petitioner was fixed to be ₹ 2 lakh. The

petitioner has remitted that amount. As directed by this Court in the order dated 23-03-2005 in W.P.(C) No.9684 of 2005, the petitioner remitted ₹ 3 lakh earlier. Thus, totally, the petitioner has remitted ₹ 5 lakh. But, as a matter of fact, the liability is only ₹ 2 lakh. Therefore, the petitioner is entitled to a refund of ₹ 3 lakh from the respondents.

In the light of the submissions so made by the learned counsel for the petitioner, this writ petition does not survive. Therefore, it is dismissed without prejudice to the right of the petitioner to get refund of the amount, if any, remitted in excess of what is due from the petitioner.

Sd/-

BABU MATHEW P. JOSEPH
JUDGE

kns/-

//TRUE COPY//

P.A. TO JUDGE

