

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 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

WA.No. 2332 of 2015 () IN WP(C).6590/2015

AGAINST THE JUDGMENT IN WP(C) 6590/2015 of HIGH COURT OF KERALA DATED 03-03-2015

APPELLANTS/RESPONDENTS 1 & 2:-

1. UNION OF INDIA (UOI)
REPRESENTED BY THE SECRETARY TO GOVT. OF INDIA
MINISTRY OF LABOUR & DEPARTMENT OF EMPLOYMENT
NEW DELHI - 110 001.
2. REGIONAL PROVIDENT FUND COMMISSIONER
EMPLOYEES PROVIDENT FUND ORGANISATION (EPFO)
BHAVISHYANIDHI BHAVAN, PATTOM PALACE
THIRUVANANTHAPURAM, PIN - 695 004.

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

RESPONDENTS/PETITIONERS & RESPONDENT NO.3 TO 5:-

1. R. SHAJU
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
TRISSUR REGIONAL OFFICE, KARTHIKA, MARAR ROAD
TRISSUR - 1.
2. K. UNNIKRISHNA VARMA
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
TRISSUR REGIONAL OFFICE, KARTHIKA, MARAR ROAD
TRISSUR - 1.
3. V. R. RAJITH
DEPUTY MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
TRISSUR REGIONAL OFFICE, KARTHIKA, MARAR ROAD
TRISSUR - 1.
4. SEEMA NAMBIAR
ASSISTANT
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
TRISSUR REGIONAL OFFICE, KARTHIKA, MARAR ROAD
TRISSUR - 1.

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5. V.SURESH KUMAR
ASSISTANT
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
TRISSUR REGIONAL OFFICE, KARTHIKA, MARAR ROAD
TRISSUR - 1.
6. LAVOSE V.V.
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, IDUKKI.
7. VIJAYAN B.NAIR
REGIONAL MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
ERNAKULAM REGIONAL OFFICE, ERNAKULAM.
8. B.ANOOP
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
THIRUVANANTHAPURAM HEAD OFFICE, THIRUVANANTHAPURAM.
9. SUMADEVI T.V.
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
ERNAKULAM REGIONAL OFFICE, ERNAKULAM.
10. PAUL CHACKO
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, KANNUR.
11. O.RAMESAN
ATTENDER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, IDUKKI.
12. JOSE PRATAP K.VICTOR
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, KANNUR.
13. KRISHNANKUTTY P.A.
DEPUTY MANAGER/REGIONAL MANAGER IN CHARGE
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, KALPETTA, WAYANAD DISTRICT.
14. RAJEEV C.G.
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, KALPETTA, WAYANAD DISTRICT.

15. JOHNSON T.J.
ASSISTANT
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, KALPETTA, WAYANAD DISTRICT.
16. SUBHASH M.M.
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
WAYANAD REGIONAL OFFICE, ARUN TOURIST HOME BUILDING
KALPETTA, WAYANAD DISTRICT.
17. PRAKASH M.
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
KOZHIKODE REGIONAL OFFICE, "KAMAL"
KOZHIKODE - 673 001.
18. ANIL KUMAR M.P.
DEPUTY MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, KOZHIKODE.
19. LATHA C.K.
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, KOZHIKODE - 673 001.
20. N.RAJENDRA KURUP
ASSISTANT
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
HEAD OFFICE, THIRUVANANTHAPURAM.
21. N.RAJENDRAN KURUP
ASSISTANT
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, PALAKKAD.
22. M.JALEKSHMI
ASSISTANT
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, PALAKKAD.
23. PREETHI K.P.
ASSISTANT
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, MARAR LANE, THRISSUR.

24. A.K.GEETHAMMA
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, MARAR LANE, THRISSUR.
25. C.RAMADAS
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, P.B.NO.32, KANHANGAD - 671 315.
26. K.V.BALAN
ATTENDER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL
DEVELOPMENT BANK (KSCARD BANK)
REGIONAL OFFICE, THRISSUR.
27. RENJITH A.M.
GUEST ROOM KEEPER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, THRISSUR.
28. THOMSON JOSEPH
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, ERNAKULAM.
29. T.P.MEHABOOB
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, ERNAKULAM.
30. S.REMESAN
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, PATHANAMTHITTA.
31. V.SASIDHARAN
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, KOLLAM.
32. GEETHA RANI J.
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, KOLLAM.
33. I.RAMESH KUMAR
ASSISTANT
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, KOLLAM.

34. S.L.BEENA
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, KOLLAM.
35. C.CHANDRIKA
DEPUTY MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, KOLLAM.
36. R.VIJAYAN
REGIONAL MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, KOLLAM.
37. RAJARAM M.
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
INSPECTING WING (N2), KANNUR.
38. ELDO P.M.
DEPUTY MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, KASARAGOD.
39. GEORGE E.A.
ASSISTANT MANAGER
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, KASARAGOD.
40. ANNIE SEBASTIAN
ASSISTANT
KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK (KSCARD BANK)
REGIONAL OFFICE, ERNAKULAM.
41. KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK
REPRESENTED BY GENERAL MANAGER IN CHARGE
THIRUVANANTHAPURAM, PIN - 695 001.
42. KERALA STATE CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT
BANK PROVIDENT FUND TRUST
REPRESENTED BY MANAGING TRUSTEE, THIRUVANANTHAPURAM
PIN - 695 001.
43. MANAGING COMMITTEE OF KERALA STATE CO-OPERATIVE AGRICULTURAL AND
RURAL DEVELOPMENT BANK
REPRESENTED BY ITS PRESIDENT, THIRUVANANTHAPURAM
PIN - 695 001.

WA.No. 2332 of 2015 () IN WP(C).6590/2015

R41-R43 BY ADV. SRI.GEORGE POONTHOTTAM,SC,KSCARD BANK
SRI.P.N.MOHANAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 16-11-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

smv

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

W.A. No.2332 of 2015

Dated this the 16th day of November, 2015

JUDGMENT

Surendra Mohan, J.

The appellants challenge the judgment of the learned Single Judge dated 03.03.2015 in W.P.(C) No.6590 of 2015.

2. Respondents 1 to 40, employees of respondent No.41, 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 40 are the employees of respondent No.41. 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 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 40 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 respondents 1 to 40 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. 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.

6. 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**

//true copy//

P.A. To Judge

smv
18.11.2015