

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K. SURENDRA MOHAN

&

THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

WA.No. 2481 of 2015 () IN WP(C).9124/2015

AGAINST THE JUDGMENT IN WP(C) 9124/2015 of HIGH COURT OF KERALA DATED
25-03-2015.

APPELLANTS/RESPONDENTS 1 TO 3:

1. UNION OF INDIA
REPRESENTED BY THE SECRETARY
MINISTRY OF LABOUR & DEPARTMENT OF EMPLOYMENT
NEW DELHI-110 001.
2. REGIONAL PROVIDENT FUND COMMISSIONER
EMPLOYEES PROVIDENT FUND ORGANIZATION (EPFO)
PATTOM PALACE, THIRUVANANTHAPURAM-695 004.
3. ASSISTANT PROVIDENT FUND COMMISSIONER
SUB REGIONAL OFFICE
EMPLOYEES PROVIDENT FUND ORGANISATION (EPFO)
BHAVISHYANIDHI BHAVAN, KALOOR, ERNAKULAM.

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

RESPONDENT/PETITIONER AND RESPONDENTS 4 AND 5:

1. A.P.RAPPAI
ARIMBOOR HOUSE, CHEVOOR P.O.
THRISSUR-680 027.A/O NO.KR/3375/423
PPO NO.KR/KCH/66278.
2. KERALA AGRO MACHINERY CORPORATION LTD. (KAMCO)
(GOVERNMENT OF KERALA UNDERTAKING) REPRESENTED
BY MANAGING DIRECTOR
ATHANI, ALUVA-683 585.
3. PROVIDENT FUND TRUST
REPRESENTED BY SECRETARY
KERALA AGRO MACHINERY CORPORATION LTD. (KAMCO)
EMPLOYEES PROVIDENT FUND, ATHANI, ALUVA-683 585.

BY SRI.M.GOPIKRISHNAN NAMBIAR
BY SRI.P.N.MOHANAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 20-11-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

smv

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

W.A. No.2481 of 2015

Dated this the 20th day of November, 2015

JUDGMENT

Surendra Mohan,J.

The appellants challenge the judgment of the learned Single Judge dated 25.03.2015 in W.P.(C) No.9124 of 2015.

2. The first respondent, an employee of the 2nd respondent, had filed the Writ Petition seeking inter alia, a direction to the appellants to permit him to enjoy higher pensionary benefits as per the Employees Pension Scheme by computing pension contributions on the basis of his actual pay in excess of the ceiling limit and transferring contributions computed on the said basis to the Pension Fund. The first respondent is an employee of the second respondent. He is 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 the first respondent 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 first respondent 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

//true copy//

P.A. To Judge

smv
21.11.2015