

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 25TH DAY OF NOVEMBER 2015/4TH AGRAHAYANA, 1937

WA.No. 2515 of 2015

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AGAINST THE JUDGMENT DATED 24-03-2015 IN WP(C) 9283/2015.**

APPELLANT(S)/RESPONDENTS 1 TO 3:

- 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 ORGANIZATION (EPFO),
BHAVISHYANIDHI BHAVAN, PATTOM PALACE,
THIRUVANANTHAPURAM-695 004.**
- 3. ASSISTANT PROVIDENT FUND COMMISSIONER,
SUB REGIONAL OFFICE,
EMPLOYEES PROVIDENT FUND ORGANIZATION (EPFO),
BHAVISHYANIDHI BHAVAN, KALOOR, ERNAKULAM.**

**BYSRI.N.N.SUGUNAPALAN (SENIOR ADVOCATE)
ADV. SMT.T.N.GIRIJA, SC,EPF ORGANISATION**

RESPONDENT(S)/PETITIONERS 1 TO 6 AND 4TH RESPONDENT:

- 1. V.V.THANKAPPAN, VELAMPARAMBU HOUSE,
ELOOR NORTH, UDYOGAMANDAL P.O.,
ERNAKULAM, PIN-683 501.**
- 2. C.R.SURESH CHANDRAN, NARAYANEEYAM,
EROOR, TRIPUNITHURA, ERNAKULAM-682 306.**
- 3. K.M.GEORGE, KUDAKKATTU HOUSE,
EAST VAZHAPPALLY, MUVATTUPUZHA,
ERNAKULAM-683 565.**
- 4. SASEENDRAN N.S., NEERIUMPARAMBATH HOUSE,
PUNNOORKODE, PAZHAMTHOTTAM P.O.,
ERNAKULAM-683 565.**

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5. MOHANAN NAIR O.N.,
ORAPPAKKATTU HOUSE, PUNNOORKODE,
PAZHAMTHOTTAM P.O., ERNAKULAM-683 565.
6. GEORGE K.O., KOTTALIL HOUSE,
KOTTAPPADY P.O., KOTHAMANGALAM,
ERNAKULAM-683 570.
7. ERNAKULAM REGIONAL CO-OPERATIVE MILK
PRODUCERS UNION LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR,
EDAPPALLY P.O., ERNAKULAM-682 024.

BY ADVS. SMT.LATHA ANAND
SRI.P.K.MOHANAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 25-11-2015 ALONG WITH WA.2482/2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

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

W.A NO:2515 OF 2015

Dated this the 25th November, 2015.

JUDGMENT

Surendra Mohan, J.

The appellants challenge the judgment of the learned Single Judge dated 24.3.2015 in W.P.(C) No.9283 of 2015.

2. Respondents 1 to 6, employees of the 7th 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 his actual pay in excess of the ceiling limit and transferring contributions computed on the said basis to the Pension Fund. The respondents 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 6 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 employees 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.

In view of the above, this Writ Appeal is dismissed.

Sd/-
K.SURENDRA MOHAN
JUDGE

Sd/-
SHAJI P.CHALY
JUDGE

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