

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

WP(C).No. 1132 of 2014 (N)

PETITIONERS:

1. M.V.PARAMESWARAN NAIR, SREESAILAM,
HILLTOP GARDENS, KARAKULAM,
THIRUVANANTHAPURAM - 695 564.
2. K.SURENDRAN NAIR, KOYIKKALVILAKAM, PACHA,
PALUVALLI, THIRUVANANTHAPURAM 695 562
3. K.BALACHANDRAN NAIR, AISWARYA, TC 43/59(1)NGRA-61,
KAMALESWARAN, MANACAUD P.O,
THIRUVANANTHAPURAM 695 009
4. K.VIKRAMAN NAIR, KRISHNASREE, TC-7/821,
KOCHULLUR, MEDICAL COLLEGE,
THIRUVANANTHAPURAM 695 011.
5. V. MOHANACHANDRAN NAIR, MOHANAVILAS,
VALIAKATTAKKAL, VENJARAMOODU,
THIRUVANANTHAPURAM 695 607
6. C.KARUNAKARAN NAIR, PANANGATTU BUILDING
VENJARAMOODU, THIRUVANANTHAPURAM 695 607
7. K.RADHAKRISHNAN, SREERAGAM, TC 22/462(2) KRA-90
KOUCHIRAVILA, MANACAUD P.O,
THIRUVANANTHAPURAM 695 009.
8. SHOBHANAKUMARI AMMA, ASWATHI, KARIPUR,
NEDUMANGAD P.O, THIRUVANANTHAPURAM
9. K.R USHA, SREENILAYAM, MELATTINGAL,
ALAMKODE P.O, THIRUVANANTHAPURAM
10. A.VIJAYAKUMARAN NAIR, AMBADI, UNNIMUKKU,
THUMBODU, KALLARA P.O, THIRUVANANTHAPURAM.
11. S.SOMARAJAN PILLA, GEETHABHAVAN,
UNNIMUKKU, KALLARA P.O, THIRUVANANTHAPURAM
12. B.MOHANAN NAIR, VAZHATHOPPU BUNGALAW,
VANCHUVAM, PULLIMANNOOR P.O,
NEDUMANGAD, THIRUVANANTHAPURAM.
13. K.MURALEEDHARAN NAIR, THUSHARA, MMVRA-52,
P.H.E.D ROAD, VALIAKUNNU, ATTINGAL P.O,
THIRUVANANTHAPURAM.

14. VASANTHA K., ASAD BHAVAN, ALAMKODU P.O,
ATTINGAL THIRUVANANTHAPURAM
15. P. PADMAVATHI AMMA, DEEPAKOTTAGE, GRA 524,
GOWRISAPATTAM PATTAM P.O, THIRUVANANTHAPURAM
16. R.GEETHA, TC 6/723(2), PRASADAM, SIVASAKTHINAGAR,
URUNIKKAL, MEDICAL COLLEGE P.O, THIRUVANANTHAPURAM.
17. MARYKUTTY VARGHESE, KAMUKUMPALLIL,
KALLAMPALLY, MEDICAL COLLEGE P.O,
THIRUVANANTHAPURAM 11.
18. T.G. SURESH KUMAR, BHAGYA, H.NO 15,
VIKAS NAGAR, NETTAYAM, THIRUVANANTHAPURAM.
19. C.LALI, ASWATHY, DEVI NAGAR, KALADY,
KARAMANA P.O, THIRUVANANTHAPURAM.
20. SREEKUMARI AMMA, TC/1152, TLRA-10,
ASWATHY, KURAVANKONAM, KOWDIYAR P.O,
THIRUVANANTHAPURAM.
21. P.L.NJANASEELAN, SWAGATHNIVAS,
PRASANTHNAGAR, MEDICAL COLLEGE P.O,
THIRUVANANTHAPURAM.
22. M.TREESAMMA, NN 12, ATHIRA, INDIRANAGAR,
PEROORKADA P.O, THIRUVANANTHAPURAM.
23. R.JAYAKUMARI, THEMPARA, KAIPATTIMUKKU,
AVANAVANCHERI P.O, ATTINGAL, THIRUVANANTHAPURAM.
24. P.K.UDAYABHANU, KOCHUKALLUVILA VEEDU,
MADAPPURAM P.O, CHIRAYINKEEZHU,
THIRUVANANTHAPURAM
25. K.SUDHAKARAN, CHITHIRA, THAYOOURKUNNU,
AVANAVANCHERI P.O, ATTINGAL,
THIRUVANANTHAPURAM.
26. C.RAJAN NAIR, SREEKRISHNAVILASAM,
PUVATHUR P.O, NEDUMANGADA P.O,
THIRUVANANTHAPURAM.
27. R.LEELA, SOUPARNIKA, VILABHAGAM,
NEDUNGANDA P.O, THIRUVANANTHAPURAM.
28. P.VIJAYAMMA, DEVIPRIYA, TC 19/322,
VATTAVILA, THIRUMALA P.O, THIRUVANANTHAPURAM.
29. M.V REVAMMA, MANALEL, TC 18/520(4), ARAMADA P.O,
PUNNACKAMUGAL, THIRUVANANTHAPURAM 23

30. K.LALITHAKUMARI, PRINTLAND, TC 7/1006,
KANJIRAMPARA P.O., THIRUVANANTHAPURAM 30.
31. P. PADMAKUMARI AMMA, PRATHUSHYA,
ARUVIKKARA, THIRUVANANTHAPURAM
32. M. MOHANKUMAR, TC 41/2020(4) PNRA-11,
PARAMOODU LINE, MANAKKAD P.O,
THIRUVANANTHAPURAM.
33. S. JAYASREE, JOTSYANA, PATTOOR,
VANCHIYOOR P.O, THIRUVANANTHAPURAM
34. N. PUSHPARAJAN NAIR, ROHINI NIVAS,
ILLAMNOORKONAM, THARUVAMOODU P.O,
THIRUVANANTHAPURAM.

BY ADV. SRI.PN.MOHANAN

RESPONDENTS:

1. THE REGIONAL PROVIDENT FUND COMMISSIONER,
EMPLOYEES PROVIDENT FUND ORGANISATION,
REGIONAL OFFICE, "BHAVISHYANITHI BHAVAN",
PATTAM PALACE P.O., THIRUVANANTHAPURAM 695 004.
2. THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK,
REPRESENTED BY ITS GENERAL MANAGER,
THIRUVANANTHAPURAM 695 001.

Addl.3. KERALA STATE CO-OPERATIVE EMPLOYEES' PENSION BOARD
REPRESENTED BY SECRETARY, P.B.NO.85, KALA NIVAS
T.C.NO.27/156, 157, CHINMAYA LANE, KUNNUMPURAM,
NEAR AYURVEDA COLLEGE, THIRUVANANTHAPURAM- 1.

ADDL. R3 IS IMPEADED AS PER ORDER DATED 29/09/2014 IN IA 13152/2014.

R2 BY ADV. SRI.T.R.HARIKUMAR, SC, THIRUVANANTHAPURAM DIST.CO.OP.BANK
R2 BY ADV. SRI.S.SUJIN
R2 BY ADV. SRI.N.N.SUGUNAPALAN (SR.)
R3 BY ADV. SRI.K.R.SUNIL, SC, CO-OP.EMP.PENSION BOARD
BY SMT.T.N.GIRIJA, SC, EPF ORGANISATION
BY SRI.C.K.JAYAKUMAR, SC, TVM. DIST. CO.OP.BANK LTD,

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04-02-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- | | |
|-------------------|---|
| EXHIBIT P1 | A TRUE COPY OF THE DETAILS OF THE REMITTANCE IN THE CASE OF 1ST, 2ND AND 3RD PETITIONERS |
| EXHIBIT P2 | A TRUE COPY OF THE ORDER DATED 26-05-2009 OF THE FIRST RESPONDENT |
| EXHIBIT P3 | A TRUE COPY OF THE ORDER 30-06-09 OF THE GOVERNMENT OF KERALA |
| EXHIBIT P4 | A TRUE COPY OF THE SERVICE DETAILS AND THE AMOUNT DUE TO THE PETITIONERS FROM THE FIRST RESPONDENT WITH A REQUEST TO REFUND |
| EXHIBIT P5 | A TRUE COPY OF THE ONE OF THE PENSION PAYMENT ORDER DATED 8-4-2013 OF THE FIRST RESPONDENT |
| EXHIBIT P6 | A TRUE COPY OF THE COMMUNICATION DATED 18-05-2012 OF THE FIRST RESPONDENT |
| EXHIBIT P7 SERIES | A TRUE COPY OF THE LETTER DATED 22-05-2013 AND REPLY DATED 3-6-2013 OF THE FIRST RESPONDENT |

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

WP(C) NO. 1132 OF 2014

Dated this the 4th day of February, 2015

JUDGMENT

The writ petition has been filed seeking a direction to the first respondent to refund the amount collected towards the Employees Pension Scheme, 1995 with 12% interest applicable to Provident Fund contribution. The first respondent has filed a counter affidavit dated 25.08.2014 to the writ petition wherein it is inter alia averred in paragraph 17 thereof as follows:

“17. It is submitted that the Hon'ble High Court in the common judgment dated 31.01.2012 in the writ petitions cited, supra quashed the impugned orders and held that the Regional Provident Fund Commissioner has no jurisdiction to grant exclusion. In view of the above order, the Co-operative banks are not presently excluded. However, in view of the SLPs filed by the Government of Kerala and Pension Board, this respondent is not in a position to transfer the pension contribution in respect of the petitioners as there is a possibility of upholding the order of exclusion by the Hon'ble Supreme Court in SLP. Under that circumstance, the petitioners shall retain the EPS membership and can avail the eligible benefits under Employees Pension Scheme, 1995.”

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The above submission of the first respondent is hereby recorded.

2. The first respondent is therefore directed to disburse the eligible benefits under the Employees Pension Scheme, 1995 to the petitioners within a period of two months from the date of production of a copy of this judgment.

The Writ Petition is disposed of.

**V. CHITAMBARESH
JUDGE**

ncd