

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

WP(C) .No. 12801 of 2013 (A)

PETITIONER(S) :

P.G.PURUSHAN,
AGED 63 YEARS, S/O.LATE GOPALAN,
RESIDING AT PUTHUMANAVELI HOUSE,
S.N.PURAM P.O., CHERTHALA, ALAPPUZHA.

BY ADVS.SRI.C.V.MANUVILSAN
SRI.RAJAN VISHNURAJ

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
LABOUR AND REHABILITATION DEPARTMENT,
THIRUVANANTHAPURAM.
2. THE SECRETARY,
KANJIKUZHI COIR MATS AND MATTINGS,
CO-OPERATIVE SOCIETY NO.745,
S.N.PURAM P.O., ALAPPUZHA.
3. REGIONAL PROVIDENT FUND COMMISSIONER,
EMPLOYEES PROVIDENT FUND ORGANIZATION,
BHAVISHYA NIDHI BHAVAN, KALOOR, KOCHI-17.

R1 -R3 BY ADV. SRI.N.N.SUGUNAPALAN (SR.)
R1-R3 BY ADV. SMT.T.N.GIRIJA, SC,EPF ORGANISATION
BY GOVERNMENT PLEADER SRI.E.M.ABDUL KHADER.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
29-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: COPY OF THE APPLICATION FILED BY THE PETITIONER FOR THE MONTHLY PENSION.

EXHIBIT P2: COPY OF THE PENSION PAYMENT ORDER VIDE PPO NO.KR/KCH/51964.

EXHIBIT P3: COPY OF THE REPRESENTATION DATED 23.09.2008 PREFERRED BY THE PETITIONER.

EXHIBIT P4: COPY OF THE JUDGMENT DATED 24.09.2012 IN WPC.NO.17055/2009.

EXHIBIT P5: COPY OF THE REPRESENTATION PREFERRED BEFORE THE 3RD RESPONDENT ON 03.10.2012.

EXHIBIT P6: COPY OF THE COMMUNICATION VIDE NO.KR/KCH/PRO/PGHS/GRIEVANCE REVIEW (10/12)/2012-13/DATED 07.12.2012 FROM THE OFFICE OF THE 3RD RESPONDENT.

EXHIBIT P7: COPY OF THE MEDICAL CERTIFICATE OF DISABILITY ISSUED BY THE DISTRICT MEDICAL BOARD, TD MEDICAL COLLEGE, ALAPPUZHA.

RESPONDENT(S)' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.M. SHAFFIQUE, J.

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W.P. (C) No. 12801 of 2013

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Dated this, the 29th day of September, 2015

J U D G M E N T

Petitioner has approached this Court challenging Ext.P6 by which representation submitted by the petitioner was rejected by the Employees' Provident Fund Organization.

2. The short facts involved in the writ petition would disclose that the petitioner was an employee of a Society for a period from 1/6/1992 to 28/2/2008. He was eligible for pension and other benefits under the Employees Pension Scheme, 1995. Ext.P1 is the application submitted by the petitioner and he was paid monthly pension @ ₹898/- per month.

3. Petitioner's grievance was that while submitting his application, he did not give an option for deduction for the commutation of pension amount for the nominee in terms of Clause 12A of the Employees Pension Scheme, 1995. He filed WP (C) No.17055/09 and this Court by judgment dated 24/9/2012 directed the EPF Organization to consider his representation and pass appropriate orders. Pursuant to the same, petitioner

submitted Ext.P5 representation claiming that his pension amount is to be deducted towards commutation for the nominee. However, the same was again rejected by the Organization in terms of Ext.P6 order dated 10/12/2012. It is stated in Ext.P6 that if the beneficiaries change preferences according to their immediate need, actuarial evaluation will not be enough to satisfy the pension that is payable. Pension is being worked out on a particular basis and if the option is changed, it will be detrimental to the implementation agency and the Pension Scheme as a whole. It is stated that there are about 36 lakhs pensioners and 6,15,88,670 account holders are likely to get pension in future. If any change is made in the Scheme that is being applied by changing the option, it will not be possible for the Organization to maintain the fund for providing pension to the beneficiaries.

4. Though it is contended by the learned counsel for the petitioner that his case has to be considered on compassionate grounds, I do not think that the EPF Organization can be called upon to change the option exercised by the petitioner as it may change the entire actuarial evaluation that had been adopted in the case of the petitioner.

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Since Ext.P6 order passed by the authorities are in accordance with the statutory provisions, I do not think that any interference is called for with reference to Ext.P6. Further, as stated in the counter affidavit filed by the respondent Organization, paragraph 13(2) of the Employees Pension Scheme clearly indicates that the option once exercised shall be final. Under such circumstances, there is no reason for this Court to interfere in the decision making process of the EPF Organization and there is neither any arbitrariness nor any illegality in the said order. No grounds are made out for interference. Accordingly, this writ petition is dismissed.

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp
30/09/2015

//True Copy//

PS to Judge