IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

WP(C).No. 16254 of 2015 (F)

PETITIONERS:
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1. MALU. M., AGED 58 YEARS,
D/O. CHANDRAN, DEPUTY MANAGER, (EMPLOYEE CODE:1289),
THE KERALA STATE FINANCIAL ENTERPRISES LIMITED,
MELENITUMPALA, NANMADA P.O., KOZHIKODE-673 613.

2. RAMACHANDRAN K., AGED 58 YEARS,
S/O. GOPALAN, SPECIAL GRADE ASSISTANT,
(EMPLOYEE CODE: 1949),
THE KERALA STATE FINANCIAL ENTERPRISES LIMITED,
DHANASREE HOUSE, KINALOOR P.O., BALUSSERY-673 612.

3. CHANDRAN KADENKADY, AGED 58 YEARS,
S/O. LATE KOREN K., (EMPLOYEE CODE: 4337),
THE KERALA STATE FINANCIAL ENTERPRISES LIMITED,
RIJINA NIVAS, IRIVERY P.O., PIN-670 613,
THIRUVANANTHAPURAM-695 044.

4. RAVINDRAN K., AGED 58 YEARS,
S/O. LATE KANNAN, ASSISTANT MANAGER,
(EMPLOYEE CODE:1952),
THE KERALA STATE FINANCIAL ENTERPRISES LIMITED,
ANASWARAM, KADAMBOOR P.O., KANNUR-670 663.

5. VARADAVALLY C., AGED 58 YEARS,
D/O. RAMAN T.P., DEPUTY MANAGER, (EMPLOYEE CODE:850),
THE KERALA STATE FINANCIAL ENTERPRISES LIMITED,
CHARUTHA, THOTTADA P.O., PIN-670 007.

6. SAROJINI K.V., AGED 58 YEARS,
D/O. VELLAN, OFFICE ATTENDANT (EMPLOYEE CODE: 3185),
THE KERALA STATE FINANCIAL ENTERPRISES LIMITED,
KILAYIL VEEDU, KAVUMPURAM, PERUMPALLY P.O.

7. NARAYANAN K.M., S/O. T.P.U. KIDAVE,
ASSISTANT MANAGER (NC) (EMPLOEE CODE 1582), KSFE LTD.,
HEAD OFFICE, VANAMALI HOUSE, CHEVARAMBALAM P.O.,
CHEVARAMBALAM, KOZHIKODE DISTRICT-673 017.

8. RAJI T.T., D/O. VELAYUDHAN T.T., OFFICE ATTENDANT (HG),
EMPLOYEE CODE: 3190, KSFE LTD., MANKAVU BRANCH,
RESIDING AT PAIKKATTUKAVIL HOUSE, NELLIKKODE,
KOZHIKODE.

9. HARIDASAN K.V., S/O. VELAYUDHAN K.K.,
ASSISTANT MANAGER, KSFE LTD.,
KAKKANAD BRANCH, RESIDING AT KANGARA HOUSE,
THRIKKAKARA NORTH, KANGARAPPADY,
VADACODE P.O., 682 021.

BY ADVS.SRI.R.SANJITH,
SMT.C.S.SINDHU KRISHNAH.

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.

2. THE PRINCIPAL SECRETARY TO GOVERNMENT,
FINANCE DEPARTMENT, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

3. THE PRINCIPAL SECRETARY TO GOVERNMENT,
DEPARTMENT OF TAXES, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

4. THE KERALA STATE FINANCIAL ENTERPRISES LTD.,
BHADRATHA, MUSEUM ROAD, THRISSUR-680 020,
REPRESENTED BY ITS MANAGING DIRECTOR.

5. THE MANAGING DIRECTOR,
THE KERALA STATE FINANCIAL ENTERPRISES LTD.,
HEAD OFFICE, BHADRATHA, MUSEUM ROAD,
THRISSUR-680 020.

R1 TO 3 BY SPL. GOVT. PLEADER (FINANCE) SRI.P.V.LONACHAN.
R4 & R5 BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR,
SRI.P.GOPINATH,
SRI.P.BENNY THOMAS,
SRI.K.JOHN MATHAI,
SRI.JOSON MANAVALAN,
SRI.KURYAN THOMAS.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14-07-2015, ALONG WITH WP(C).NO.16305 OF 2015 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 16254 of 2015 (F)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1-	TRUE COPY OF THE JUDGMENT IN WP(C).NO.27935/2014 AND ITS CONNECTED MATTERS DATED 11-02-2014.
EXHIBIT P2-	TRUE COPY OF THE INTERIM ORDER DATED 17-12-2014 IN WP(C).NO.27935/2014.
EXHIBIT P3-	TRUE COPY OF THE ORDER DATED 20-05-2015 BEARING G.O.(RT) NO. 340/2015/TD.
EXHIBIT P4-	TRUE COPY OF THE MINUTES OF THE 460TH MEETING OF THE BOARD OF DIRECTORS OF THE 4TH RESPONDENT HELD ON 25-06-2014.
EXHIBIT P5-	TRUE COPY OF ANNEXURE IX OF THE REVIEW.
EXHIBIT P6-	TRUE COPY OF THE ANNEXURE XIV OF THE REVIEW.
EXHIBIT P7-	TRUE COPY OF THE SAID ORDER BEARING GO (MS)NO. 108/2014/ID DATED 31-07-2014.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

'CR'

ANIL K.NARENDRAN, J.

W.P.(C).Nos.16254, 16305, 16330, 16336, 16337, 16338, 16339, 16769, 19300 & 20383 of 2015

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Dated this the 14th day of July, 2015

JUDGMENT

The common issue that arises for consideration in this batch of Writ Petitions is as to the legality of G.O.(Rt.)No.340/2015/TD dated 20.5.2015 issued by the Government of Kerala.

2. The Exhibits are referred to in this judgment, unless otherwise mentioned, as they appear in W.P.(C)No.16336 of 2015.

3. The petitioners are employees of the Kerala State Financial Enterprises Limited (hereinafter referred to as 'the KSFE'), which is a Non-banking Financial Institution incorporated under the provisions of the Companies Act, 1956 owned by the Government of Kerala. The retirement age of employees in the KSFE is 58 years. The Board of Directors of the KSFE in its 460th meeting held on 25.6.2014 decided, among the other things, to recommend to the Government of Kerala the enhancement of retirement age of its employees from 58 years to 60 years. Resolution No.6590 in Ext.P4 minutes of the 460th meeting of the Board of Directors of the KSFE

held on 25.6.2014, reads thus:-

> "Resolution No.6590 - Resolved to recommend to the Government of Kerala the enhancement of retirement age of the KSFE Employees from 58 years to 60 years."

4. The said decision was taken in compliance of the direction contained in Ext.P3 judgment of this Court in W.P.(C)No.20079 of 2013 and connected cases, by which this Court directed the Government of Kerala, through the Department concerned, as well as the KSFE to take a final decision with respect to enhancement of retirement age of the KSFE Employees from 58 years to 60 years. The recommendation made in Ext.P4 was thereafter forwarded to the Taxes Department, Government of Kerala, which is the administrative department of the KSFE, for its approval. Due to the inaction on the part of the Government, the employees of the KSFE approached this Court in W.P(C)No.13748 of 2014 and connected cases and this Court by Ext.P5 interim order permitted the petitioners therein to continue in service after the respective dates of their superannuation. During the pendency of those Writ Petitions, the Government by Ext.P6 letter dated 22.7.2014 informed the Managing Director of the KSFE that, the enhancement of the

retirement age of employees of Public Sector Undertakings is to be decided by the Government as a matter of policy. The Finance Department has taken a stand not to enhance the retirement age of employees of Public Sector Undertakings at this point of time and the position has been intimated to the Secretary, Taxes Department through a D.O. letter. Ext.P6 was followed by Ext.P7 Government letter dated 25.7.2014 of the Secretary to Government, Taxes Department, addressed to the Managing Director of the KSFE.

5. In view of the decision taken by the Government not to enhance the retirement age of employees of the KSFE, W.P(C) No.13748 of 2014 and the connected Writ Petitions were amended by incorporating a challenge against Exts.P6 and P7. By Ext.P15 common judgment dated 11.2.2015 this Court disposed of W.P(C) No.13748 of 2014 and the connected cases, observing that, the decision of the Government for enhancement of retirement age of KSFE employees do not depend upon any policy of the Government, which has to be taken independently based on the resolution passed by the Board of Directors of the KSFE. After setting aside Exts.P6 and P7, this Court directed the Government to take a decision on Ext.P4 resolution of the Board of Directors of the KSFE, within two

months from the date of receipt of a copy of the Judgment. Paragraphs 7 and 8 of the Ext.P15 judgment read thus;

> "**7.** The function of the Governor, in terms of the Articles of Association, is in relation to the company. This function is not an executive function as contemplated under the Constitution or under any Legislation. The "Governor" in this context is to be understood as an incorporation by reference to the executive function being exercised by the Government in the name of the Governor. The reference in the bye-law "to have a prior approval of the Governor", therefore, must be understood in regard to satisfaction by the Government on the viability of the company having enhanced age of retirement from 58 years to 60 years. This do not depend upon any policy of the Government. The policy of the Government being discharged through an executive function has nothing to do with the duty being discharged in terms of the Articles of Association of the Company. It is obvious that the matter of enhancement of age of retirement of the employees of KSFE is not placed before the Council of Ministers for their advice and views. The decision has to be taken by the Government with a specific reference to the Company in terms of the Memorandum of Association and Articles of Association of the Company.
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> **8.** As afore-noted, the decision of the Government for enhancement of the age of the employees of KSFE is not

depend upon any policy of the Government. This decision has to be taken independent, based on the resolution passed by the Board of Directors of the Company. Accordingly, the impugned orders (Exts.P7 and P8 produced in W.P.(C)No.13748/2014) are set aside. The writ petitions are disposed of with the following directions:-

(i) The Government shall take appropriate decision based on Ext.P6 resolution (produced in W.P.(C)No.13748/2014), dated 25/6/2014, of the Board of Directors of the Company in its 460th meeting, within two months from the date of receipt of a copy of this judgment.

(ii) The petitioners shall be permitted to continue till a decision is taken by the Government in this matter.

(iii) If an adverse decision is taken not to enhance the age of retirement, the petitioners shall be permitted to continue for a further period of two weeks from the date of decision of the Government to enable them to work out alternative remedy.

(iv) The payment of salary to the employees who are continuing based on the interim order would depend upon the outcome of the decision of the Government. All other issues in the writ petitions are left open. No costs."

6. Subsequent to Ext.P15 judgment, the Government issued

Ext.P16 Government order dated 20.5.2015, by which it was decided not to enhance the present retirement age of employees of the KSFE and to maintain status quo regarding their age of retirement as specified in Para.17(i) of the Standing Orders applicable to them. The reasoning given Para.9 of Ext.P16 Government order reads thus:-

> "Government, after considering all the aspects involved in this issue, has decided not to enhance the present retirement age and to maintain status quo regarding the age of retirement as specified in para 17(i) of the Standing Orders applicable to the employees of KSFE."

7. It is aggrieved by Ext.P16 Government Order dated 20.5.2015, the petitioners in this batch of Writ Petitions are before this Court.

8. On 3.6.2015, this Court passed an interim order in these Writ Petitions, permitting the writ petitioners to continue in service of the KSFE for a period of three weeks. It was made clear that, their continuance based on the interim order will be purely provisional and subject to the result of these Writ Petitions and that, they will not be entitled to claim salary or other benefits for the period during which they are continuing in service on the strength of

this interim order. The said interim order was extended by one month by order dated 24.6.2014.

9. A very detailed counter affidavit has been filed on behalf of respondents 1 to 3, in order to justify the stand taken in Ext.P16 Government order. Para.10 of the counter affidavit reads thus:-

> "**10.** It is pertinent to state that the retirement age once enhanced cannot be lowered further even if the company is affected by a financial crisis and as such the viability cannot be taken as criteria for deciding the age of superannuation of the employees of the company as contended by the petitioners. The enhancement of retirement age of the employees of the Public Sector Undertakings is to be decided by the Government as a matter of policy and Government have already taken a stand not to enhance the retirement age of employees of the PSUs at this point of time. It is also to be pointed out that in the interregnum between 25.6.2014 and 11.02.2015 (the respective dates of the resolution and the judgment) the Government decided not to enhance the retirement age of the employees of the PSUs and to maintain status quo and communicated the same to all administrative Departments as per U.O.No.15528/BPE3/13/Plg. dated 22.08.2014. Admittedly the Company is a State Government owned Public Sector Undertaking and as such approval of Government is mandatory for the Board Resolution and since the Government have

already taken a stand not to enhance the retirement age of employees of the PSUs like the Company as early as on 22.08.2014 there is no further requirements of a Government decision in the case of the Board Resolution of the Company which proposes to enhance the retirement age of the employees of the company. That being so there is no sort of non-compliance of the direction of this Hon'ble Court as alleged in the Writ Petition. However the recommendations/resolutions of the Board of Directors of the Company were always fairly considered by the Government and the contention of the petitioners that, approval sought for by the Company to its decision to enhance the retirement age of the employees is taken as a mere formality by the Government is absolutely wrong and incorrect; therefore denied. Similarly the decision to enhance the age of retirement of the employees mentioned in the list of State Level Public Enterprises as averred the Writ Petition was taken years back ranging from 1946 to 2011 and the facts and circumstances which prompted to take such decisions taken in those periods cannot be made applicable to the employees of the Company as on today. It is also a fact that there is no emergent situation prevailing in the Company warranting enhancement of retirement age and the attempt of the petitioners to equate their claim with that of other PSUs where the retirement age were enhanced will not sustain. As submitted already the number of educated unemployed youths are on the increase and the vacancies of the Company are to be filled from PSC rank list as per the vacancies reported by the Company and the rank list based on such reporting are also in force and any enhancement in the age of retirement of the existing employees of the company from 58 to 60 years will adversely affect both the said classes. In this regard it is to be further submitted that the rank holders have also approached this Hon'ble Court along with the employees of the company by contending that the retirement age of the employees of the respondent Company shall not be enhanced on the ground that they are already included in the rank list and any extension/ enhancement of retirement age will squarely affect their employment opportunities, they being rank holders in the PSC list which were prepared as per the vacancies reported by the Company. The Taxes Department of the Government which is the controlling authority of the Company was also constrained to consider the fact that any increase in the retirement age of its employees will adversely affect the promotional expectations as well as transfer entitlements of its own employees and the consequences that may arise out of it. These facts further show that the Government have considered all the eventualities while the decision as per G.O.(Rt.) No.340/2015/TD dated 20.5.2015 was taken."

10. I heard the arguments of the learned Senior

Counsel/learned counsel for the petitioners in these writ petitions, learned Special Government Pleader (Finance) appearing for respondents 1 to 3 and also the learned Standing Counsel for the KSFE.

11. The question of enhancement of retirement age of employees of the KSFE from 58 years to 60 years was the subject matter in W.P(C)No.13748 of 2014 and connected cases. By Ext.P5 interim order, this Court permitted the petitioners therein to continue in service after the respective dates of their superannuation. During the pendency of those Writ Petitions, the Government by Exts.P6 and P7 letters dated 22.7.2014 and 25.7.2014 respectively, informed the Managing Director of the KSFE that, the enhancement of the retirement age of employees of Public Sector Undertakings is to be decided by the Government as a matter of policy. The Finance Department has taken a stand not to enhance the retirement age of employees of Public Sector Undertakings at this point of time. In view of the said decision, the Writ Petitions were amended by incorporating a challenge against Exts.P6 and P7. By Ext.P15 common judgment, this Court disposed of W.P(C) No.13748 of 2014 and connected cases, observing that, the decision

of the Government for enhancement of retirement age of KSFE employees do not depend upon any policy of the Government, which has to be taken independently, based on the resolution passed by the Board of Directors of the KSFE. After setting aside Exts.P6 and P7, this Court directed the Government to take a decision on Ext.P4 resolution of the Board of Directors of the KSFE, within two months from the date of receipt of a copy of the Judgment. Now, the Government have issued Ext.P16 order, by which it was decided not to enhance the present retirement age of employees of the KSFE and to maintain status quo regarding their age of retirement as specified in Para.17(i) of the Standing Orders applicable to them.

12. In **Commissioner of Police, Bombay v. Gordhandas Bhanji (AIR 1952 SC 16)** the Apex court has held that, public orders publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in

the order itself. Following the principle laid down in Gordhandas Bhanji's case (supra), the Apex Court has reiterated in **Mohinder Singh Gill v. Chief Election Commissioner (1978 (1) SCC 405)** that, when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, gets validated by additional grounds later brought out.

13. Though it has been stated in Para.7 of Ext.P16 that, the Government have re-examined the matter on the basis of the observations contained in Ext.P15 judgment of this Court, nothing is discernible from Ext.P16 to infer that, the Government had undertaken such an exercise while taking the decision not to enhance the retirement age of employees of the KSFE. Similarly, it has been stated in Para.9 of Ext.P16 order that, the Government, after considering all the aspects involved in this issue, has decided not to enhance the present retirement age and to maintain status quo regarding the age of retirement as specified in Para.17(i) of the Standing Orders applicable to the employees of KSFE. But, nothing is

discernible from Ext.P16 to infer that, Ext.P16 order is one passed after considering all the aspects involved in this issue. Now, by way of a counter affidavit filed in these Writ Petitions, the Government want to supplement the reasoning in Ext.P16 order, in order to make it appear that the said order is one supported by reasoning; which is impermissible in the light of the principle laid down in the decisions of the Apex Court referred to above. Therefore, the contention of the learned Special Government Pleader that, the sustainability of Ext.P16 order has to be judged by the reasons supplemented in the counter affidavit can only be rejected.

14. As I have already noticed, the reasoning given Para.9 of Ext.P16 order is that, the Government, after considering all the aspects involved in this issue, has decided not to enhance the present retirement age and to maintain status quo regarding the age of retirement as specified in Para.17(i) of the Standing Orders applicable to the employees of the KSFE. It is well settled that, even in respect of administrative orders, giving of reasons is one of the fundamentals of good administration and that, failure to give reasons amounts to denial of justice.

15. In **Breen v. Amalgamated Engineering Union (1971**

(1) All. E.R. 1148) Lord Denning, M.R. Observed that, the giving of reasons is one of the fundamentals of good administration. In **Alexander Machinery (Dudley) Ltd. v. Crabtree (1974 ICR 120)** it was observed that, failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at.

16. Following the principle laid down in the decisions referred to above, the Apex Court in **Chairman and Managing Director, United Commercial Bank and others Vs. P.C.Kakkar (2003) 4 SCC 364)** held that, reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the 'inscrutable face of the sphinx', it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The 'inscrutable face of a

sphinx' is ordinarily incongruous with a judicial or quasi-judicial performance.

17. A Constitution Bench of the Apex Court has laid down in **Krishna Swami v. Union of India and others (1992 (4) SCC 605)** that, undoubtedly, in a parliamentary democracy governed by rule of law, any action, decision or order of any statutory/public authority/functionary must be founded upon reasons stated in the order or staring from the record. Reasons are the links between the material, the foundation for their erection and the actual conclusions. They would also demonstrate how the mind of the maker was activated and actuated and their rational nexus and synthesis with the facts considered and the conclusions reached. Lest it would be arbitrary, unfair and unjust, violating Article 14 or unfair procedure offending Article 21 of the Constitution of India.

18. The object underlying the rules of natural justice is to prevent miscarriage of justice and secure fair play in action. The recording of reasons by an administrative or quasi-judicial authority serves a salutary purpose, namely, it excludes chances of arbitrariness and ensures a degree of fairness in the process of decisions making. It would apply equally to all decisions made by

such authority and its application cannot be confined to decisions which are subject to appeal, revision or judicial review. At the same time, it is not the requirement that, the reasons should be as elaborate as in the decision of a court of law. What is necessary is that, the reasons are clear and explicit so as to indicate that the authority has given due consideration to the points in controversy. Hence, it is an essential requirement of the rule of law that, some reasons, at least in brief, must be disclosed in the order passed by an administrative or quasi-judicial authority.

19. In Ext.P15 judgment, this Court observed that, the decision of the Government for enhancement of retirement age of KSFE employees do not depend upon any policy of the Government, which has to be taken independently based on the resolution passed by the Board of Directors of the KSFE. After setting aside Exts.P6 and P7, the Government was directed to take a decision on Ext.P4 resolution of the Board of Directors of the KSFE, within two months from the date of receipt of a copy of the Judgment. Though it has been stated in Ext.P16 order that, the Government have re-examined the matter on the basis of the observations contained in Ext.P15 judgment and that, after considering all the aspects involved

in the issue, have decided not to enhance the present retirement age of KSFE employees, the said order does not contain any reason whatsoever for taking such a decision.

20. In **B.A.Linga Reddy v. Karnataka State Transport Authority (2015 (4) SCC 515)**, the Apex Court after referring to its earlier judgments on the subject has reiterated that, the rule of reason is anti-thesis to arbitrariness in action and is a necessary concomitant of the principles of natural justice. If a statutory or public authority/functionary does not record the reasons, its decision would be rendered arbitrary, unfair, unjust and violating Articles 14 and 21 of the Constitution of India. It is the duty of such authority/functionary to give reasons and to pass a speaking order that excludes arbitrariness in action. Referring to the facts of that case, the Apex Court noticed that, there is no consideration of the objections except mentioning the arguments of the rival parties and that objections both factual and legal have not been considered much less reasons assigned to overrule them.

21. The learned Special Government Pleader strenuously argued with reference to Para.10 to 14 of the counter affidavit filed on behalf of respondents 1 to 3 that, Ext.P16 order is one issued

after considering all the aspects involved in the issue and also the observations contained in Ext.P15 judgment of this Court. However, a bare reading of Ext.P16 order makes it explicitly clear that, it does not contain any reason whatsoever for taking such a decision. Ext.P16 order does not even indicate as to whether the Government have given due consideration of the points in controversy. Ext.P16 is indubitably a cryptic order which does not contain the reasons on which the decision is based. Once it is found that, Ext.P16 order does not contain any reason whatsoever for taking such a decision, the conclusion is irresistible that, it is one passed ignoring the objective facts pleaded by the petitioners in this batch of cases. In such circumstances, Ext.P16 Government order (G.O.(Rt.) No.340/2015/TD dated 20.5.2015) cannot be sustained and the same is set aside.

22. In the result, the State of Kerala, the 1st respondent in these Writ Petitions, is directed to reconsider the matter of grant of approval to Resolution No.6590 in Ext.P4 minutes of the 460th meeting of the Board of Directors of the KSFE held on 25.6.2014, and pass a reasoned order on the basis of the observations contained in Ext.P15 judgment, after due consideration of the points

in controversy and also the contentions raised by the petitioners, keeping in mind the observations contained in this judgment.

23. The learned Special Government Pleader would submit that, the Government require at least two months time for passing fresh orders in the matter. Therefore, it is ordered that, the Government shall pass appropriate orders as directed above, as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of this judgment. Till such decision is taken, the petitioners in this batch of Writ Petitions shall be permitted to continue in service of the KSFE.

24. On 3.6.2015, this Court passed an interim order in these Writ Petitions, permitting the writ petitioners to continue in service of the KSFE for a period of three weeks. It was made clear that, their continuance based on the interim order will be purely provisional and subject to the result of these Writ Petitions and that, they will not be entitled to claim salary or other benefits for the period during which they are continuing in service on the strength of this interim order. On 24.6.2015, the said order was extended by one month.

25. The learned Senior Counsel/learned counsel for the

petitioners would submit that, taking into consideration the fact that huge amount towards terminal benefits payable to the respective petitioners are now withheld and that they are continuing in service and discharging the duties attached to the respective posts without any salary, the KSFE may be directed to disburse at least a portion of their salary, as they find it difficult to make both ends meet. Per contra, the learned Standing Counsel for the KSFE would submit that, the Management never withheld any terminal benefits payable to the petitioners, on the other hand they are continuing in service on the strength of the interim order passed by this Court. The learned Standing Counsel would also contend that, the continuance of the petitioners in service beyond their age of superannuation is causing serious administrative inconvenience to the Management.

26. Considering the fact that, the petitioners in this batch of Writ Petitions are continuing in service without any salary from the date of Ext.P16 order dated 20.5.2015 and that the Government require two months time to pass fresh orders as directed above, I deem it just and proper to direct the KSFE to pay an amount equivalent to 50% of their respective salary, for their subsistence till the Government take a fresh decision in the matter. But, it is made

clear that, the Government will be free to take a decision on the question of adjustment of any such payment made to the petitioners in these Writ Petitions, in case the decision of the Government on the question of enhancement of retirement age of the employees of the KSFE is adverse to them.

These Writ Petitions are disposed of as above. No order as to costs.

Sd/-
ANIL K.NARENDRAN, JUDGE

skj