

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 19361

WP(C).No. 19080 of 2013 (H)

PETITIONER(S):

**EXPRESS PUBLICATION (MADURAI) LIMITED,
EXPRESS HOUSE, KALOOR, KOCHI - 17,
REPRESENTED BY ITS ASSISTANT GENERAL
MANAGER- KERALA MR.P.SURESH KUMAR.**

**BY ADVS.SRI.P.RAMAKRISHNAN,
SRI.T.C.KRISHNA.**

RESPONDENT(S):

- 1. THE REGIONAL PROVIDENT FUND COMMISSIONER-II,
EMPLOYEES PROVIDENT FUND ORGANIZATION,
REGIONAL OFFICE, KERALA, BHAVISHYANIDHI BHAVAN,
PATTOM, THIRUVANANTHAPURAM - 695 004.**
- 2. SRI.K.S.RADHAKRISHNAN,
GENERAL SECRETARY
THE NEW INDIAN EXPRESS EMPLOYEES ASSOCIATION,
NARAYANEEYAM, NEAR STATUE JUNCTION,
TRIPUNITHURA, KOCHI - 682 301.**

**R1 BY SRI.N.N.SUGUNAPALAN, SENIOR SC,
ADV. SMT.T.N.GIRUA, SC.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-01-2015, ALONG WITH WP(C). NO.19550 OF 2013, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1: TRUE COPY OF ORDER DATED 31/07/2012 OF THE
1ST RESPONDENT.
- EXT.P2: TRUE COPY OF JUDGMENT DATED 14/03/2013 IN WA NO.432/2013.
- EXT.P3: TRUE COPY OF SUMMONS DATED 12/07/2013 ISSUED BY
THE 1ST RESPONDENT.
- EXT.P4: TRUE COPY OF APPLICATION DATED 24/07/2013 SUBMITTED BY
THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.P5: TRUE COPY OF THE DAILY ORDER SHEET DATED 25/07/2013 OF
THE 1ST RESPONDENT.
- EXT.P6: TRUE COPY OF PETITION DATED 27/07/2013 SUBMITTED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

K. VINOD CHANDRAN, J

**W.P(C) Nos.19080 of 2013 &
19550 of 2013**

Dated this the 06th day of January, 2015

J U D G M E N T

Identical petitioners in both the writ petitions is aggrieved by the proceedings taken in violation of the specific directions in the Division Bench judgment of this Court in W.A No.432/2013 and the subsequent order passed by the authority. W.P(C) No.19080/2013 was filed when the petitioners were not granted the opportunity as directed by the Division Bench of this Court. W.P(C) No.19550/2013 was filed against the order which was passed subsequent to the filing of the earlier writ petition.

The issue relates to proceedings under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short "the Act"). An order was passed by the Department which was challenged by the management before this Court contending that at first, there has to be an adjudication with respect to the status of the person claiming to be covered under the provisions of the Act.

The Division Bench of this Court in W.A 432/2013 took the view that the order passed by the authority has to be treated as one under paragraph 26B of the Provident Fund Scheme as to the status of the employees being entitled to be covered under the provisions of the Act and Scheme and proceedings have to be continued under Section 7A of the Act. It was the proceedings initiated in compliance of the Division Bench judgment that are challenged in the above writ petitions.

The petitioner however, challenged the judgment of the Division Bench before the Hon'ble Supreme Court in Civil Appeal No.7683/2014. A remand order was passed in the following lines:

In the facts and circumstance, we are of the view that while remitting the matter to the Competent Authority under sub-section (3) of Section 7A of the Provident Funds Act, 1952 it was incumbent on the part of the High Court to ask the Competent Authority to determine the preliminary issue whether 47 journalists, working journalists, non-journalists, etc. are

covered under the Provident Fund Act and Scheme. If the issue is answered in affirmative, in that case, the Competent Authority will decide whether such employees are entitled to become members of the Scheme as per para 26B of the Provident Fund Scheme, 1952.”

In view of the remand order passed by the Hon'ble Supreme Court, the proceedings which are the subject of challenge in the above writ petitions are to be set aside and the authority has to comply with the directions issued by the Hon'ble Supreme Court in Civil Appeal No.77683 of 2014. The writ petitions are hence allowed since the authority has to carry on the proceedings afresh in compliance with the directions in the Civil Appeal.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge