

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 21376 of 2009 (N)

PETITIONER :

MARIYAMMA K.M.,
WIFE OF LATE LUKOSE,
CHAMAKKERI HOUSE,
IRUMPAYAM P.O.,
THALAYOLAPARAMBU
KOTTAYAM.

BY ADV. SMT.GIRIJA L.

RESPONDENT(S) :

1. LABOUR WELFARE OFFICER,
HINDUSTAN NEWS PRINT OFFICE,
VELLORE, KOTTAYAM.
2. REGIONAL PROVIDENT FUND COMMISSIONER,
TRIVANDRUM.
3. PROVIDENT FUND COMMISSIONER,
EMPLOYEES PROVIDENT FUND ORGANISATION
SUB REGIONAL OFFICE, C.M.S.COLLEGE ROAD, KOTTAYAM.

*ADDL. R4 IMPEADED

*ADDL.R4. SARAMMA CHACKO
CHUMAKERIL, IRRUMPAYAM P.O.,
THALAYOLAPARAMBU, KOTTAYAM.

*IS IMPEADED AS ADDL. R4 IN WP(C) NO. 21376/09 AS PER ORDER
DT. 23/09/2009 IN IA NO. 11670/2009.

R1 BY ADVS. SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR
SRI.K.JOHN MATHAI
SRI.P.BENNY THOMAS
SRI.ANIL D. NAIR

R2 & R3 BY ADV. SRI.JOY THATTIL ITOOP, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08-04-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

...2/-

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : PHOTOCOPY OF THE FAMILY MEMBERSHIP CERTIFICATE ISSUED BY
THE VILLAGE OFFICER, VAIKOM.
- EXT.P2 PHOTOCOPY OF THE APPLICATION SUBMITTED BEFORE THE 3RD
RESPONDENT FOR DISBURSING P F ACCUMULATION.
- EXT.P3 PHOTOCOPY OF THE CONTRIBUTION CARD ISSUED TO THE
PETITIONER'S HUSBAND LUKOSE.
- EXT.P4 PHOTOCOPY OF THE PASS BOOK (STATE BANK OF INDIA)
MAINTAINED BY THE PETITIONER.

RESPONDENT'S ANNEXURES :

- ANNEXURE R3(a) : COPY OF THE COMMUNICATION DATED 26/3/2008 ISSUED BY
THE 1ST RESPONDENT TO THE 3RD RESPONDENT.

//TRUE COPY//

P.A. TO JUDGE

Mn

K. VINOD CHANDRAN, J

W.P(C) No. 21376 of 2009

Dated this the 8th day of April, 2015

J U D G M E N T

The petitioner has filed the above writ petition claiming to be the wife of one C.C Lukose who died on 10.08.2007. The petitioner's claim is that as the wife, she is entitled to the benefit under Employees Provident Fund and Miscellaneous Provisions Act, 1952. The petitioner's contention is that her husband was employed in the Hindustan News Print Limited for 24 years and that the amounts said to be remaining in the Provident Fund Account of the deceased husband has to be more than Rs.70,000/-; which alone is admitted by the Provident Fund Organisation.

2. The 1st respondent under whom allegedly the petitioner's husband was employed has filed a counter affidavit contending that the petitioner's husband was never an employee under the 1st respondent. The specific contention raised is that

their records indicate that the petitioner was an employee of its contractor and the establishment is shown only as a principal employer. In such circumstance, the 1st respondent specifically states that there was no employer- employee relationship between the petitioner's husband and the 1st respondent. It is also pointed out, by the 1st respondent, that, in the writ petition also, there is no specific averment as to the specific date of joining in employment or the other details of the petitioner's husband's employment nor anything to indicate his date of superannuation.

3. The respondent Organisation has also filed a statement that, on the petitioner submitting an application with Ext.P1 showing the family as herself and her two daughters, an objection was received from the brother and mother of the deceased employee. It was in such circumstance that the respondent Organisation directed production of a legal heirship certificate. It is also specifically stated in the statement that what is due and payable in the Provident Fund Account of the petitioner's

husband is only Rs.39,552/- and not Rs.74,000/- as alleged by the petitioner. In such circumstance, the petitioner's deceased husband cannot be found to be an erstwhile employee of the 1st respondent. Necessarily if any contributions were not paid of a regular employee, the respondent Organisation should have taken steps against the employer. The claim of employment under the 1st respondent has to be negated for reason of the same having been not substantiated by any material evidence. Whatever amount is remaining under the Provident Fund Account as stated by the respondent Organisation can only be disbursed after production of legal heirship certificate.

Reserving such remedy, the writ petition would stand dismissed. No costs.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge