

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

THURSDAY, THE 17TH DAY OF SEPTEMBER 2015/26TH BHADRA, 1937

WP(C).No. 34119 of 2009 (H)

PETITIONER(S):

K.T.JOSEPH, MANAGING PARTNER,
HOTEL CALICUT GATE, RAMANATTUKARA, CALICUT.

BY ADVS.SRI.JOE JOSEPH KOCHIKUNNEL
SRI.REJI GEORGE

RESPONDENT(S):

1. STATE OF KERALA, REP BY THE SECRETARY
LABOUR DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM

2. THE ABKARI WELFARE FUND BOARD
REP BY THE CHIEF WELFARE FUND INSPECTOR
THIRUVANANTHAPURAM.

3. THE DISTRICT WELFARE FUND INSPECTOR
ABKARI WORKERS WELFARE INSPECTORS OFFICE, KOZHIKODE.

R2-3 BY ADV. SRI.ROY CHACKO
R1 BY GOVERNMENT PLEADER SMT.LILLY LESSLIE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
17-09-2015, ALONG WITH WPC. 34737/2009, WPC. 33245/2010, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 34119 of 2009

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1: COPY OF JUDGMENT DATED 9.9.2005 IN W.A.NO.963/1997.

EXHIBIT P2: COPY OF JUDGMENT DATED 12.12.1996 IN O.P.NO.4412/1999.

EXHIBIT P3: COPY OF DOCUMENT SHOWING THE COVERAGE OF EPF ACT, 1952 IN HOTEL CALICUT GATE.

EXHIBIT P4: COPY OF PRE-ASSESSMENT NOTICE DATED 30.10.2009 ISSUED BY 3RD RESPONDENT TO HOTEL CALICUT GATE.

EXHIBIT P5: COPY OF REPLY DATED 10.11.2009 SUBMITTED BY THE PETITIONER.

EXHIBIT P6: COPY OF ORDER DATED 18.11.2009 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P7: COPY OF JUDGMENT DATED 24.1.2006 IN O.P.NO.7454/2000.

EXHIBIT P8: COPY OF ORDER DATED 13.2.2007 IN WP(C).NO.4815/2007.

/TRUE COPY/

PS TO JUDGE

vgs

ANU SIVARAMAN, J.

=====

**W.P. (C) Nos.34119 & 34737 of 2009
& 33245 of 2010**

Dated this the 17th day of September, 2015

J U D G M E N T

The prayers raised in these writ petitions are with regard to the challenge against the demand for contribution under the Kerala Abkari Workers' Welfare Fund Act, 1989. It is submitted by the learned counsel appearing for the petitioners that the employees of the petitioners are covered under the Employees Provident Fund and Miscellaneous Provisions Act as well as the Payment of Gratuity Act, 1972 and are therefore not covered under the Welfare Fund Act. It is submitted by the learned counsel appearing for the petitioners that the question raised is squarely covered by the judgment of a Division Bench of this Court dated 09.09.2005 in W.A. No. 963 of 1997[**Chief Welfare Fund Inspector v. M/s. Sealord Hotels(P) Ltd.**].

2. In these circumstances, the impugned orders are quashed and it is held that the petitioners are not required to pay contribution under the Welfare Fund Act. The welfare fund board

-: 2 :-

shall issue necessary clearance certificates to the petitioners for seeking of renewal of their licence. It is also made clear that it would be open to the 1st respondent to ensure that all the workers of the petitioners are covered under the EPF Act.

These writ petitions are disposed of as above.

Sd/-
ANU SIVARAMAN,
JUDGE

DST

//True copy//

P.A. To Judge