

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION AND
IT ITS
INHERENT JURISDICTION UNDER ARTICLE 226 OF
THE CONSTITUTION OF INDIA**

WRIT PETITION NO.1645 OF 2016

Philips Employees Union

.... Petitioner

versus

Regional Provident Fund Commissioner
& 2 Ors.

... Respondents

Mr.Bennet D'Costa and Mr.Jignasha Pandya for the Petitioner.

Ms. S.V. Bharucha for Respondent No.1.

Mrs.N.R. Patankar with Mr.V.P. Sawant for Respondent No.3.

**CORAM : ANOOP V. MOHTA AND
 G.S. KULKARNI, JJ.**

DATE : 03rd OCTOBER, 2016.

ORDER :-

1. This Petition under Article 226 of Constitution of India preferred by the Philips Employees Union peculiarly seeks the following prayers;

- a) *to issue a writ of mandamus or a writ in the nature of mandamus, or any other appropriate writ, order or direction, calling for the records and proceedings, direct the respondents 1 to 3 to give the petitioner the list of workmen/retirees of Respondent No.3 company*

working in Mumbai and Bhiwandi and retired between 1995 and 2001;

- b) to issue a Writ of Mandamus or any other appropriate writ, order or direction to the Respondents 1 to 3 to locate the missing beneficiaries / members of the Employees' Pension Scheme in respect of Employees of Phillips India Ltd working at Mumbai and Bhiwandi who retired between 1995 and 2001 and initiate the process for payment of their pension under the Employees Pension Scheme;*
- b) that this Hon'ble Court be pleased to issue a Writ of mandamus or any other appropriate writ, order or direction to Respondents 1 to 3 to pay the employees of Phillips India Ltd. who retired between 1995 and 2001 the pensions under the Employees Pension Scheme 1995 with interest at 8% per annum from the date of their retirement until the date of payment of their pensions;*
- c) that this Hon'ble Court be pleased to issue a Writ of mandamus or any other appropriate writ, order or direction to Respondents 1 to 2 to pay the employees of Phillips India Ltd. who retired between 1995 and 2001 the amount of the Employees' Contribution wrongly kept in abeyance separately pending the decision of the Hon'ble Supreme Court, in the writ petitions challenging the Employee's Pension Scheme 1995, together with interest at 8% per annum from the date of their retirement until the date of payment of their pensions;*
- d) pending hearing and final disposal of this Petition for a direction to the Respondent Nos.1 to 3 to give the Petitioner the list of employees of Phillips India Ltd. with their addresses,*

employed at Mumbai and Bhiwandi who retired between 1995 and 2001;

- e) that pending hearing and final disposal of the Petition to direct the Respondent Nos.1 to 3 to locate the missing beneficiaries / members of the Employees' Pension Scheme who were employed at Phillips India Ltd. at Mumbai and Bhiwandi and retired between 1995 and 2001 and initiate the process for payment of their pension under the Employees Pension Scheme;*
- f) to grant interim / ad-interim reliefs in terms of prayer clause (c) and (d) above;*
- g) to award costs of this Writ Petition; and*
- h) to pass such other or further orders as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.”*

2. Mr.D'costa tenders a letter dated 21/03/2016 of the Assistant Provident Fund Commissioner addressed to the Phillips Employees' Union Mumbai, inter alia stating that the office of Assistant Provident Fund Commissioner does not have any record of addresses of the employees. The said letter is taken on record and marked 'X' for identification. This letter of the Assistant Provident Fund Commissioner also records that the members are given all the benefits only when the claim is received from the beneficiary, after attestation by the authorized signatory and that the claimants' amounts are directly transferred to his or her bank account as mentioned in the claim form. The request of the Petitioner to provide list of retirees has been refused clarifying that

no such list can be provided to a third party as it may lead to rise in fraudulent claims and misuse of members' balance.

3. We fail to see as to how a Writ Petition with such prayers can be held to be maintainable. Those employees who were diligent had approached the Provident Fund Authorities as per the procedure in law and made their claims, such claims were considered by the Provident Fund Authorities. It is not the case that the aggrieved employees are before the Court who despite their valid application are not granted the provident fund dues. The Petitioner Union is seeking names of the employees from Provident Fund Authorities. The reliefs as prayed are in the nature of an enquiry rather than redressal of any infringement of any legal right. Considering the tenor of the Petition, we have no hesitation to accept the reasoning of the Assistant Provident Fund Commissioner in his letter dated 21/03/2016 as noted above and notably the request being rejected to avoid fraudulent claims and misuse of information.

4. The prayers in the Petition are completely misconceived. Petition dismissed. No costs.

(G.S. KULKARNI, J.)

(ANOOP V. MOHTA, J.)