IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 646 OF 2019

1. Smt. Jyoti Prakash Pednekar,
w/o late Prakash Pednekar,
46 years of age,
Indian National,

2. Ms. Ankita Pednekar,
d/o late Prakash Pednekar,
24 years of age,
Indian National,

3. Ms. Avisha Pednekar,
d/o late Prakash Pednekar,
22 years of age, Indian National,
All r/o H. No.115,
Opp. MPT Administrative Office,
Mormugao Harbour-South Goa. .... Petitioners

V e r s u s

1. Employees Provident Fund Organization,
Through its (Ministry of Labour & Employment,
Govt. of India)
Regional Office,
Goa Bhavishhya Nidhi Bhavan,
24 Patto Plaza,
Panaji- Goa-403001.

2. Bank of India,
Head Land Sada Branch,
Through its Branch Manager,
MPT Shopping Complex,

Sada, Vasco Da Gama, Goa.

3. State Bank of India,
Vasco Branch,
Through its Branch Manager,
Francisco Luis Gomes Road,
Vasco da Gam, Goa. .... Respondents

Mr. D. Zaveri, Advocate for the Petitioners.
Mr. C. A. Ferreria, Advocate for Respondent no.1.
Mr. N. Vaze, Advocate for Respondent no.2.
Mr. Agha Iftikhar, Advocate for Respondent no.3

Coram:- M. S. SONAK &
NUTAN D. SARDESSAI, JJ.
Date:- 11th November, 2019.

ORAL JUDGMENT (PER M. S. SONAK, J):

Heard Mr. Zaveri, the learned counsel for the petitioners, Mr. C. A. Ferreira, the learned counsel for the respondent no.1, Mr. Vaze, the learned counsel for the respondent no.2 and Mr. Agha, the learned counsel for the respondent no.3.

2. Rule. Rule is made returnable forthwith with the consent of the learned counsel for the parties.

3. The petitioner, who is a widow of late Prakash Pednekar, along with her two children seeks a restraint upon respondent no.1 recovering the excess pension paid to the petitioners under the EPFO Pension Scheme and to further direct the respondent no.1 to resume payment under the said scheme, which since been stopped.

4. From the record produced before us, we find that the petitioners furnished two bank accounts details, as result of which, two sets of pensions were paid to the petitioners, in respect of two sets of accounts.

5. Upon realization of the obvious mistake the respondent no.1 has sought to recover the excess payment along with interest at the rate of 14% p.a. This amount came to Rs.2,32,880/- as on 31/3/2018. The respondent no.1 stopped payment of pension under the said scheme to the petitioners until the resolution of this issue.

6. This matter was adjourned from time to time, as this Court prima facie felt that there was nothing wrong on the part of the respondent no.1

in recovering the excess pension amount. The matter was adjourned in order to enable the petitioners to take instructions in the matter of refund of the excess amount and for considering the issue of interest.

7. Mr. Zaveri, the learned counsel for the petitioners, on the basis of instructions from the petitioners, has made a statement that the petitioners would have no objection if the respondent no.1 recovers the principal amount of Rs.1,85,441/- from Bank of India account/Term deposit, which the respondent no.1 has already attached. He, however submits that interest of 14% may be modified, since this was a case of bonfide mistake on the part of the petitioners and the petitioners, have now consented to recovery of the principal amount to be made by the respondent no.1.

8. Some element of confusion on the part of the petitioners cannot be ruled out in the facts and circumstances of the present case. However, once the petitioners realized that they have received two set of pensions, it was their duty to immediately write to the respondent no.1, so that the error could have been corrected at the earliest instance. However, taking into

consideration the position that the petitioners have now offered to pay back the excess amount, we feel that the interest amount should be reduced from 14% to 6% p.a . We accordingly reduce the rate of interest from 14% to 6%.

9. The respondent no.1 is therefore at liberty to recover the principal amount of Rs.1,35,441/- along with interest @ 6% p.a. This recovery should be made from out of the Term Deposit at the Bank of India as proposed by petitioners. There is some dispute as to whether this amount is to attached or not. However, we make it clear that the respondent no.1 will be entitled to recover the amount from the petitioners. The recovery should be made by 31/12/2019 and the interest at the rate of 6% p.a. can be computed up to the said date.

10. In case there is any difficulty, the petitioners, themselves, will pay this amount to the respondent no.1 along with 6% interest p.a. latest by 31.12.2019. If this is not done, the petitioners will be liable to pay interest at 10% p.a. for period up to 31/3/2020 and 14% p.a., thereafter.

11. No sooner the recovery is made, the respondent no.1 shall merge the two accounts and commence payment of one set of pension to the petitioners. This exercise to be completed latest by 31/1/2020, provided of course, excess amount is recovered/paid as aforesaid

12. Rule in this petition is disposed off in the aforesaid terms. There shall be no order as to costs.

13. All concerned to act upon an authenticated copy of this order.

NUTAN D. SARDESSAI, J. M. S. SONAK, J.

ap/-