

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.06.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.15443 of 2019

B.Uday Kumar

..Petitioner

versus

- 1.Government of India,
Rep.by Secretary to Government,
Ministry of Labour and Employment,
Shram Shakthi Bhawan,
Rafi Marg, New Delhi - 110 001.
- 2.Employees Provident Fund Organization,
Rep.by Additional Central Provident Fund Commissioner,
Head Quarters (Pension),
Bhavishya Nidhi Bhawan No.14,
Bhikaiji Cama Place,
New Delhi - 110 066.
- 3.Assistant Provident Fund Commissioner (Pension),
Employees Provident Fund Organization,
Regional/Sub-Regional Office,
Vellore.
- 4.The Management,
Vellore District Consumer Co-operative Wholesale Stores
Limited,
Rep.by its Managing Director,
No.1, Officers Line,
Vellore,
Vellore District.

..Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the 2nd respondent to process the application of the petitioners for revision of pension under Employees Pension Scheme, 1995 on actual (higher) wages exceeding the wage limit of Rs.6500/- per month, in terms of the judgment of the Hon'ble Supreme Court of India in Civil Appeal No(s).10013-10014 of 2016 dated 04.10.2016 and the order of the 2nd respondent dated

23.03.2017 bearing No. Pension-I/12/33/EPS
Amendment/96/Vol.II/34007, arrive at the revised pension payable
to the petitioners, arrive at the amount to be refunded by the
petitioner after deducting pension to be paid from the date of
retirement and pay the revised pension every month within the
time frame stipulated by this Court.

For Petitioner : Mr.Balan Haridas

For Respondents : Mr.B.K.Girish Neelakandan
SCCG for R1 & R2

Mrs.V.J.Latha for EPF for R3

ORDER

In a batch of Writ Petitions, similar to the
present Writ Petitions, in W.P.No.14368 of 2018, etc., this
Court passed detailed directions in para 48 and allowed all the
Writ Petitions in para 49, which are extracted as under:

"48. In the above mentioned circumstances,
this Court considered the following directions as
expedient to resolve the issues as projected in
the Writ Petitions.

i) Both the employees of the exempted and
unexempted establishments are entitled
to the benefit of enhanced pension on
the basis of their contribution with
reference to actual salary received by
them to their Provident Fund accounts;

ii) The cut off date as prescribed i.e.
01.12.2004 is invalid in law and
therefore, the same is held to be
illegal and invalid;

iii) The employees, namely, the writ
petitioners shall be permitted to
exercise their option in terms of
Proviso to Clause 11(3) of the Pension
Scheme and while permitting so, the
EPFO is at liberty to seek return of
the higher Provident Fund contribution
received by the respective employees
with simple interest at the rate of 6%
p.a. from the date of receipt of
Provident Fund amount and till the date
of payment;

- iv) The amounts to be refunded by the employees concerned shall be verified by the EPFO in consultation with the respective establishments in which the employees were employed;
- v) On refund of the verified amount with interest, the EPFO shall calculate and grant enhanced pension on the basis of actual salaries received by the employees with arrears of pension from the date of their retirement and continue to pay their monthly enhanced pension through out their life time;
- vi) In case where the refund of the amount by any employee with interest is higher than the enhanced pension with arrears payable to him, the refund shall be insisted upon and in case where the refund, after calculation, is lower than the arrears of pension payable to the employee, the same shall be adjusted while disbursing the arrears to the employees concerned;
- vii) The respective Managements of the exempted establishments which maintained the Private Trust are directed to cooperate with the EPFO and render all assistance in quantifying the amount to be refunded by the respective employees with interest at 6% p.a. on such refund;
- viii) The entire exercise shall be initiated and completed by the individual Managements and the EPFO within a period of six months from the date of receipt of a copy of the order.

49. In the result, all the Writ Petitions are allowed on the above terms. The orders of rejection which are impugned in the respective Writ Petitions, are hereby quashed and as regards

the Writ Petitions pertaining to the grant of Writ of Mandamus to the authorities for grant of enhanced pension are concerned, the same are allowed as indicated above. No costs. Consequently, all connected WMPs are closed.

2. The reasons and the findings in their entirety as rendered in the batch of Writ Petitions are to be read as part and parcel of the present Writ Petition as well.

3. In the light of the above, this Court is of the view that the above directions and observation will hold good for the present Writ Petition also. Accordingly, the Writ Petition is allowed on the terms as mentioned above. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

Pns/msk

To

- 1.The Secretary to Government,
Government of India,
Ministry of Labour and Employment,
Shram Shakthi Bhawan,
Rafi Marq, New Delhi - 110 001.
2. The Additional Central Provident Fund Commissioner,
Employees Provident Fund Organization,
Head Quarters (Pension),
Bhavishya Nidhi Bhawan No.14,
Bhikaiji Cama Place,
New Delhi - 110 066.
- 3.Assistant Provident Fund Commissioner (Pension),
Employees Provident Fund Organization,
Regional/Sub-Regional Office,
Vellore.
- 4.The Managing Director,
Vellore District Consumer Co-operative Wholesale Stores
Limited,
No.1, Officers Line,
Vellore, Vellore District.

+1cc to Mrs.V.J.Latha, Advocate SR.No.46097

+1cc to Mr.Balan Haridas, Advocate SR.No.46355

W.P.No.15443 of 2019

SS (CO)
GMY (21/08/2019)



WEB COPY