

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.06.2019

CORAM

THE HONOURABLE Mr. JUSTICE V.PARTHIBAN

W.P.No.16121 of 2019

1.N.Ethirajalu
2.N.Annamalai
3.G.Dhandabani
4.R.K.Karthavarayan

... Petitioners

Vs.

- 1.Government of India
Rep. By Secretary to Government
Ministry of Labour and Employment
Shram Shakthi Bhawan
Rafi Marq, 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 Central Co-operative Bank Limited
Rep. By its Managing Director
No.1, Officers Line, Vellore
Vellore District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a 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 revision pension payable to the petitioners, arrive at the

amount to be refunded by the petitioners after deducting pension to be paid from the date of retirement and pay the revised pension every month within the time frame.

For Petitioners : Mr.Balan Haridas

For RR 1 and 2 : Mr.Sundaram

For RR 3 and 4 : Mrs.V.J.Latha

ORDER

In a batch of Writ Petitions, similar to the present Writ Petitions, in W.P.No.14368 of 2018, etc., this Court by order dated 27.03.2019 passed detail 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 consider 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. No costs.

-s/d-

Assistant Registrar (CS-I)

True Copy

Sub-Assistant Registrar

Sgl
To

1. Government of India

The 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 Central Co-operative Bank Limited
Rep. By its Managing Director
No.1, Officers Line, Vellore
Vellore District.

+1 CC to Mr. Balan Haridas, Advocate sr 49974

W.P.No.16121 of 2019

SSD(CO)
SP(01/08/2019)