

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:27.06.2019

Coram

The Hon'ble Mr. Justice V.PARTHIBAN

W.P.No.17988 of 2019

1. S.Babu
2. E.Murugan
3. K.Sridharan
4. M.Kuppuswamy
5. C.Kamalakannan
6. R.Pachiyappan
7. V.Ramalingam
8. P.Dhandabani
9. T.Mohan
10. B.Muruganantham
11. K.Vaithilingam
12. T.Prabakaran
13. A.Thirunavukkarasu
14. M.Ganesan
15. R.Govindasamy
16. R.Sadagopan
17. S.Sathiyamoorthy
18. K.Jinna
19. R.Rajendran
20. M.Devarajan
21. S.Sambathkumar
22. S.Mohan
23. C.Ramadas
24. R.Radhakrishnan
25. M.Sekar
26. S.Kirubanantham
27. P.Purushothaman
28. A.Kasilingam
29. P.Balasubramanian

...Petitioners

Vs.

1. The Union of India,
Rep by The Secretary to Government of India,
Ministry of Labor and Department of Employment,
New Delhi - 110 001.
2. The Regional Provident Fund Commissioner - I,
(Pension), Bhavishya Nidhi Bhawan,
No.14 Bhikanji Cama Palace,
New Delhi - 110 066.

3.The Central PF Commissioner HQ (Pension),
Employees Provident Fund Organization,
No.14, Bhikanji Cama Palace,
New Delhi - 110 066.

4.The Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
37, Royapettah High Road,
Opposite Swagat Hotel,
Chennai - 600 014.

5.Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
No.3, Rajaji Salai,
Opposite Henkala Hotels,
Tambaram, Chennai - 600 045.

6.The Regional Provident Fund Commissioner,
Employees' Provident Fund Organization,
Regional Office,
S-1, TNHB, Phase-III,
Sathuvachary
Vellore - 632 009.

7.The Assistant Provident Fund Commissioner, (Pension)
Employees' Provident Fund Organization,
Regional Office, S-1, TNHG, Phase - III,
Sathuvachary, Vellore - 632 009.

...Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the 6th and 7th respondents herein to consider the joint representation of the petitioners dated 23.03.2019 seeking revision of their pension by extending the benefit of actual salary in the pension exceeding the wage limit and pass necessary orders in the light of the order dated 04.10.2016 passed by the Hon'ble Supreme Court in Civil Appeal No(s).10013-10014 of 2016 and the order dated 27.03.2019 passed by this Court in W.P.Nos.14368 etc, of 2019 within the time that may be fixed by this Court.

For Petitioners...

Mr.Mani P
M.Tamil Thendral Arasu

For Respondents..

Mr.T.R.Sundaram
for R1 to R4

Mrs.V.J.Latha
for R6 & R7

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

//True Copy//

Sub Assistant Registrar

Mrm

To

- 1.The Union of India,
Rep by The Secretary to Government of India,
Ministry of Labor and Department of Employment,
New Delhi - 110 001.
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(Pension), Bhavishya Nidhi Bhawan,
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+1cc to Mr.P.Mani, Advocate, S.R.No. 53115

W.P.No.17988 of 2019

JP (CO)
GN (23/07/2019)



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