

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.06.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

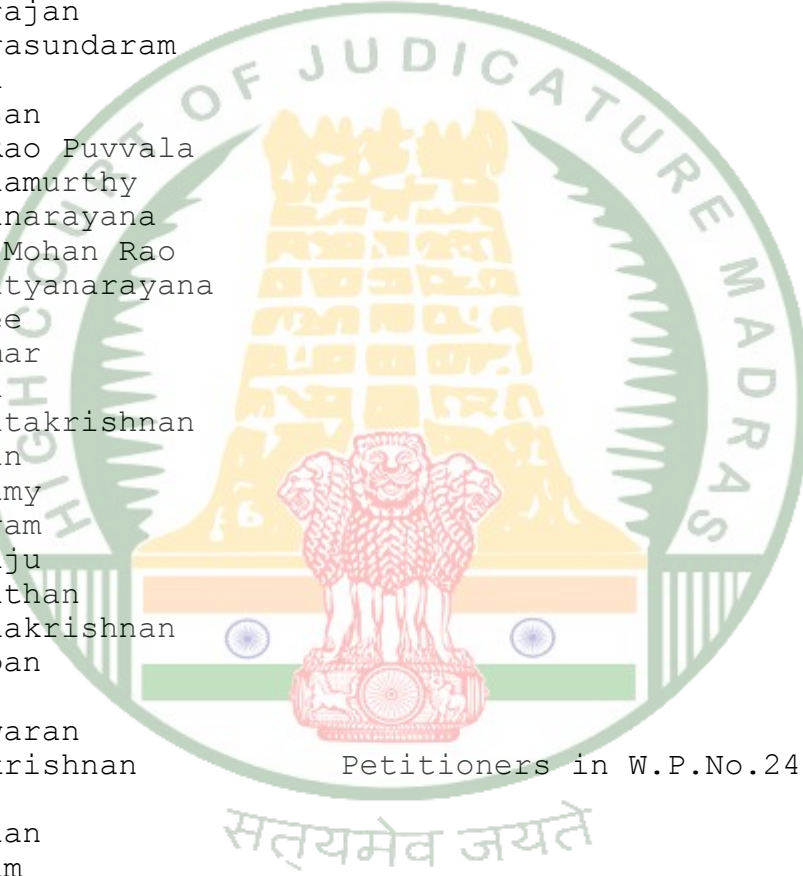
W.P.Nos.24373 & 24374 of 2018
and

W.M.P.Nos.28381 & 28384 of 2018

1. J. Rangarajan
2. M.Shanmugasundaram
3. S.S.Mohan
4. C.Murugesan
5. TrinadhaRao Puvvala
6. V. Krishnamurthy
7. T. Sathyanarayana
8. V.Madhan Mohan Rao
9. Bandau Satyanarayana
- 10.T.Benarjee
- 11.P.Rajakumar
- 12.K.K.Mohan
- 13.M.R.Venkatakrishnan
- 14.R.Marappan
- 15.K.Duraisamy
- 16.S.Shanmugam
- 17.M.Selvaraju
- 18.R. Jeganathan
19. G.R.Radhakrishnan
20. M.Rasappan
21. C.Ravi
22. S.Madeswaran
23. R.Muthukrishnan

Petitioners in W.P.No.24373 of 2018

1. M.Saravanan
2. S.Arumugam
3. P.Murugesan
4. K.Sarasu
5. N.Sankaran
6. M.Murugesan
7. M. Murugaiah
8. V.M.Subramanian
9. K.Kanniyammal
- 10.N.Marappan
- 11.N.Palanisamy
- 12.S.R.Periyasamy
- 13.V.Pandiaraj
- 14.S.Balasubramanian



WEB COPY

15.I.Imose
16.G.Poonkodi

Petitioners in W.P.No.24374 of 2018

Vs

1. Union of India
Rep. By Secretary to Government of India
Ministry of Labour and Employment
Shram Shakti Bhawan, RafiMarg
New Delhi - 110001
2. Central Provident Fund Commissioner
Employees Provident Fund Organisation
Ministry of Labour & Employment
Government of India
Bhavishya Nidhi Bhawan
14, Bhikaji Cama Place
New Delhi - 110066
3. Add.Central Provident Fund Commissioner
HQ (Pension) Employees Provident Fund Organisation
Bhavishya Nidhi Bhawan
Bhikaji Cama Place
New Delhi - 110066
4. Regional Provident Fund Commissioner-I (Pension)
Employees Provident Fund Organisation
Bhavishya Nidhi Bhawan
14, Bhikaji Cama Place
New Delhi - 110066
5. Addl.Central Provident Fund Commissioner
Employees Provident Fund Organisation
37, Royapetah High Road
Chennai - 600014
6. Regional Provident Fund Commissioner I
Employees Provident Fund Organization
Post Box No.588, Shree Complex
D Block 18
Madurai Road
Tiruchirappalli - 620008
7. Tamil Nadu Newsprint and Papers Limited
Rep by its Chairman
67, Mount Road
Guindy
Chennai - 600032

8. The General Manager (HR)
Tamil Nadu News Print and Papers Limited
Kagithapuram - 639 136
Karur

9. TNPL Provident Fund Trust
Rep by its Secretary
Kagithapuram - 639 136
Karur

Respondents in both Writ Petitions

Prayer in W.P.No.24373 of 2018: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned letter issued by the 4th respondent in No.Pension/I/12/33/EPS Amendment/ 90 Vol II, dated 31.05.2017 and quash the same and consequently, direct the respondents to grant pension on higher wages under EPS, 1995.

Prayer in W.P.No.24374 of 2018: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned letter issued by the 4th respondent in No.Pension/I/12/33/EPS Amendment/ 90 Vol II, dated 31.05.2017 and quash the same and consequently, direct the respondents to grant pension on higher wages under EPS, 1995.

For Petitioners: Mr.M.Purushothaman

For Respondents: R1- Mr.Poonam Chopra
Government Standing Counsel
R2 to R5 - Mr.Poonam Chopra
Government Standing Counsel
R6 - Mrs.V.J.Latha
R7 to R9 - Mr.Shivakumar & Mr.Suresh

C O M M O N O R D E R

In a batch of Writ Petitions in W.P.No.14368 of 2018, etc., similar to the present Writ Petitions, 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 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 Petitions 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 Petitions also. Accordingly, the Writ Petitions are allowed on the terms as mentioned above. Consequently, connected WMPs are closed. No costs.

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

vrn/sni
To

1. Union of India
Rep. By Secretary to Government of India
Ministry of Labour and Employment
Shram Shakti Bhawan, RafiMarg
New Delhi - 110001
2. Central Provident Fund Commissioner
Employees Provident Fund Organisation
Ministry of Labour & Employment
Government of India
Bhavishya Nidhi Bhawan
14, Bhikaji Cama Place
New Delhi - 110066
3. Addl. Central Provident Fund Commissioner
HQ (Pension) Employees Provident Fund Organisation
Bhavishya Nidhi Bhawan
Bhikaji Cama Place
New Delhi - 110066
4. Regional Provident Fund Commissioner-I (Pension)
Employees Provident Fund Organisation
Bhavishya Nidhi Bhawan
14, Bhikaji Cama Place
New Delhi - 110066
5. Addl. Central Provident Fund Commissioner
Employees Provident Fund Organisation
37, Royapetah High Road
Chennai - 600014
6. Regional Provident Fund Commissioner I
Employees Provident Fund Organization
Post Box No.588, Shree Complex
D Block 18
Madurai Road
Tiruchirappalli - 620008
7. The Chairman
Tamil Nadu Newsprint and Papers Limited
67, Mount Road
Guindy
Chennai - 600032

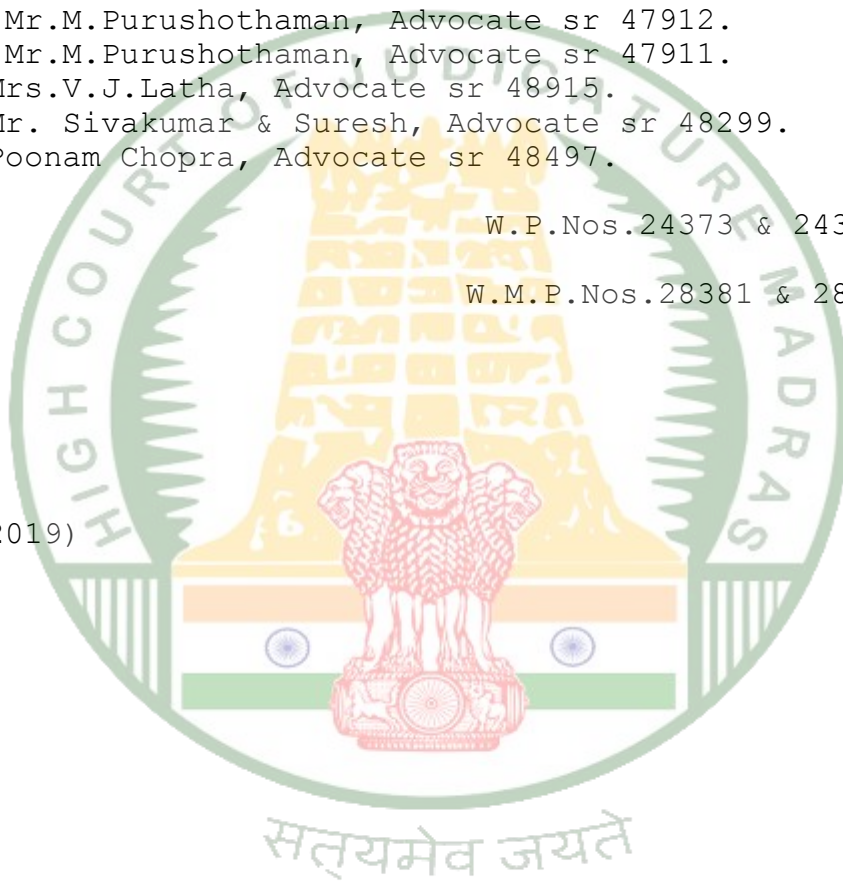
8. The General Manager (HR)
Tamil Nadu News Print and Papers Limited
Kagithapuram - 639 136
Karur

9. The Secretary
TNPL Provident Fund Trust
Kagithapuram - 639 136
Karur

+5 Ccs to Mr.M.Purushothaman, Advocate sr 47912.
+5 CCS to Mr.M.Purushothaman, Advocate sr 47911.
+1 CC to Mrs.V.J.Latha, Advocate sr 48915.
+1 CC to Mr. Sivakumar & Suresh, Advocate sr 48299.
+1 CC to Poonam Chopra, Advocate sr 48497.

W.P.Nos.24373 & 24374 of 2018
and
W.M.P.Nos.28381 & 28384 of 2018

LN(CO)
SP(30/07/2019)



WEB COPY