

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:27.06.2019

Coram

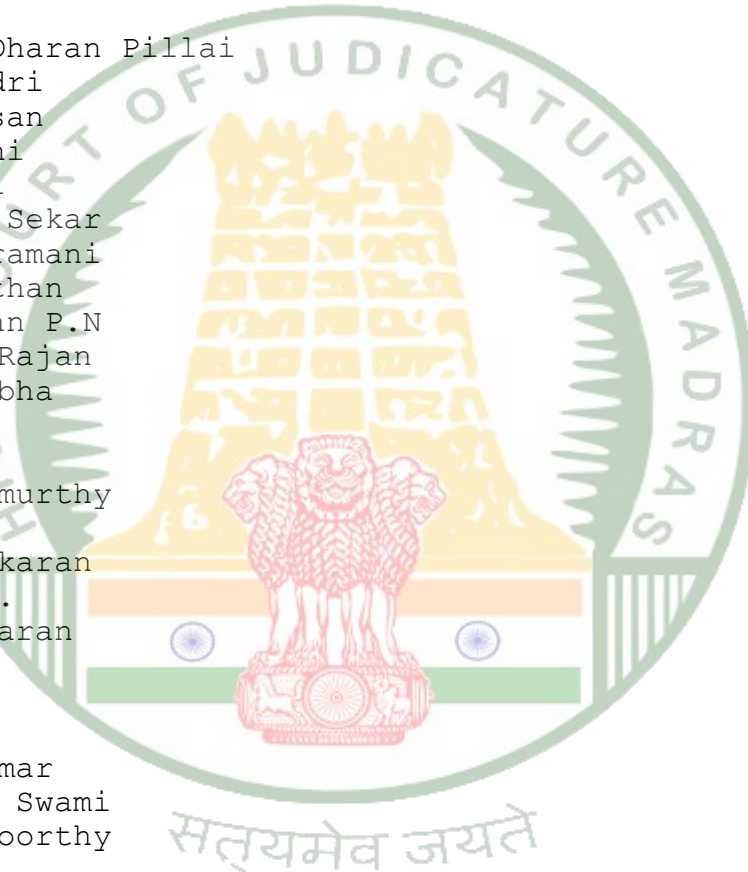
The Hon'ble Mr. Justice V.PARTHIBAN

W.P.No.18253 of 2019

&

W.M.P.Nos.17608, 17610 & 17612 of 2019

1. V.Murali Dharan Pillai
2. G.V.Seshadri
3. R.Srinivasan
4. R.Ganapathi
5. R.Rajamani
6. A.Chandra Sekar
7. G.Venkataramani
8. K.Swaminathan
9. Viswanathan P.N
10. S.Ganesa Rajan
11. M.Hemaprabha
12. B.Elango
13. V.Dayalan
14. G.Krishnamurthy
15. T.Sukumar
16. D.Dhanasekaran
17. Prakash.S.
18. R.V.Manoharan
19. N.Kumar
20. Saikumar
21. V.Dickrus
22. E.Muthukumar
23. S.Raghava Swami
24. H.Vishnumoorthy
25. R.Ganesan
26. T.S.Hariharasubramanian
27. M.Ramamoorthy
28. N.Selvaraj
29. J.Mohamet Ameen
30. C.Sivankutty
31. S.Koteeswaran
32. S.Alagendaravelu
33. A.Annamalai
34. P.Balakrishnan



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...Petitioners

Vs.

- 1.The Union of India,
Rep by The Secretary to Government of India,
Ministry of Labor and Department of Employment,
Shram Shakti Bhawan, Rafi Marg,
New Delhi - 110 001.
- 2.Addl. Central Provident Fund Commissioner, HQ (Pension),
Employees Provident Fund Organization,
Bhavishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi - 110 066.
- 3.Regional Provident Fund Commissioner-I (Pension),
Employees Provident Fund Organization,
Bhavishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi - 110 066.
- 4.Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
37, Royapettah High Road,
Chennai - 600 014.
- 5.The Managing Director,
Lucas TVS Ltd.,
Padi, Chennai - 600 050.
- 6.The Head-Corporate (IR),
Lucas TVS Provident Fund Trust,
Padi, Chennai - 600 050.
- 7.The Managing Director,
Wheels India Ltd.,
Padi, Chennai - 600 050.
- 8.The Vice President (Finance),
Staff Employee Provident Fund,
Wheels India Ltd.,
Padi, Chennai - 600 050.
- 9.The Chairman,
Sundaram Clayton Ltd.,
Padi, Chennai - 600 050.
- 10.The Chief Financial Officer,
Sundaram Clayton Employees Provident Fund,
Corporate Office, Jayalakshmi Estate,
No.29, Haddows Road,
Chennai - 600 006.

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11.The Whole Time Director,
Wabco India Ltd.,
Plant I, Plot No.3, (SP),
3rd Main Road, Ambattur Industrial Estate,
Chennai - 600 058.

12.The General Manager - Finance,
Employee Provident Fund Trust,
Wabco India Ltd.,
Plant I, Plot No.3, (SP), 3rd Main Road,
Ambattur Industrial Estate, Chennai - 600 058.

13.The General Manager,
Tamil Nadu Cooperative Housing Federation,
No.48, Ritherdon Road,
Vepery, Chennai - 600 007.

14.The Special Officer,
Tamil Nadu Cooperative Housing Federation Employees
Provident Fund Trust,
No.48, Ritherdon Road,
Vepery, Chennai - 600 007.

...Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records pertaining to the impugned letter issued by the third respondent in No.Pension/I/12/33/EPS Amendment/96 Vol-II, dated 31.05.2017 and quash the same and consequently, direct the respondent Nos.1 to 4 to grant pension on higher wages under EPS, 1995.

For Petitioners... Mr.A.Jenasenan

For Respondents... Mr.S.Sathish Rajan,
Central Government Standing Counsel
(for R.1 to R.4)

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 observations 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. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to Government of India,
Union of India,
Ministry of Labor and Department of Employment,
Shram Shakti Bhawan, Rafi Marg,
New Delhi - 110 001.
- 2.Addl. Central Provident Fund Commissioner, HQ (Pension),
Employees Provident Fund Organization,
Bhavishya Nidhi Bhawan,
14, Bhikaji Cama Place,
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- 3.Regional Provident Fund Commissioner-I (Pension),
Employees Provident Fund Organization,
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- 4.Regional Provident Fund Commissioner,
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- 5.The Chairman,
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- 6.The General Manager,
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Vepery, Chennai - 600 007.
- 7.The Special Officer,
Tamil Nadu Cooperative Housing Federation Employees
Provident Fund Trust,
No.48, Ritherdon Road,
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+1cc to Mr.A.Jenasenan, Advocate sr.53333

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&
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rr(co)
nr 02/08/2019