

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:30.08.2019

Coram

The Hon'ble Mr. Justice V.PARTHIBAN

W.P.Nos.26054 and 26062 of 2019
and W.M.P.Nos.25440, 25441 and 25443 of 2019

W.P.No.26054 of 2019

1.R.Thyagarajan
2.M.Jothilakshmi
3.S.Premalatha
4.R.Muthamilselvan
5.S.Lakshmi Narayanan
6.K.Selvaraju

..Petitioners in WP 26054/2019

Vs.

1. Central Provident Fund Commissioner
Employees Provident Fund Organization
Ministry of Labour & Employment
Bhavishya Nidhi Bhawan,
No.14, Bhikaiji Cama Place,
New Delhi - 110 066.
2. Additional Central Provident Fund Commissioner
HQ (Pension) Employees Provident Fund Organization
Ministry of Labour & Employment
Bhavishya Nidhi Bhawan,
No.14, Bhikaiji Cama Place,
New Delhi - 110 066.
3. Regional Provident Fund Commissioner-I (Pension)
HQ (Pension) Employees Provident Fund Organization
Ministry of Labour & Employment
Bhavishya Nidhi Bhawan,
No.14, Bhikaiji Cama Place, New Delhi - 110 066.
4. Additional Central Provident Fund Commissioner
Employees Provident Fund Organization
37, Royapettah High Road
Chennai 600 014.

5. Regional Provident Fund Commissioner-I
Employees Provident Fund Organization
Post Box No.588, Shree Complex
D Block 18, Madurai Road
Thiruchirapalli - 620 008.

6. Tamil Nadu Newsprint and Papers Limited
rep.by its Chairman, 67, Mount Road
Guindy, Chennai 600 032.

7. TNPL Provident Fund Trust, rep.by its Secretary
Kagithapuram 639 136, Karur District.

Respondents in WP
No.26054/2019

W.P.No.26062 of 2019

K.Vijayalakshmi ... Petitioner in WP
No.26062 of 2019

-Vs-

1. Central Provident Fund Commissioner
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Ministry of Labour & Employment
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2. Additional Central Provident Fund Commissioner
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Ministry of Labour & Employment
Bhavishya Nidhi Bhawan,
No.14, Bhikaiji Cama Place,
New Delhi - 110 066.

3. Regional Provident Fund Commissioner-I (Pension)
Employees Provident Fund Organization
Ministry of Labour & Employment
Bhavishya Nidhi Bhawan,
No.14, Bhikaiji Cama Place,
New Delhi - 110 066.

4. Additional Central Provident Fund Commissioner
Employees Provident Fund Organization
37, Royapettah High Road
Chennai 600 014.

5. Regional Provident Fund Commissioner-I
Employees Provident Fund Organization
Post Box No.588, Shree Complex
D Block 18, Madurai Road
Thiruchirapalli - 620 008.

6. TNPL Matric Higher Secondary School
rep.by its Secretary & Correspondent
Kagithapuram 639 136, Karur District

..Respondents
in W.P.No.26062/2019

Prayer in W.P.No.26054 of 2019 : 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 3rd 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.26062 of 2019 : Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the respondents to grant pension on higher wages under EPS, 1995.

For Petitioners in both WPs:Mr.M.Purushothaman

For Respondents in both WPs:Mr.T.R.Sundaram - for R1 to R4
Mrs.V.J.Latha - for R5

COMMON 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 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. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kst

To

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6. The Chairman,
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67, Mount Road
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7. The Secretary, TNPL Provident Fund Trust
Kagithapuram 639 136, Karur District.

+2 ccs to Mr.M.Purushothaman, Advocate, S.R.No.74958 and 74959

W.P.Nos.26054 & 26062 of 2019
and W.M.P.Nos.25440, 25441
and 25443 of 2019

RSY (CO)
SSM(12/09/2019) .

सत्यमेव जयते

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