

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

W.P.No.22120 of 2019

Date: 1.10.2019

Between :

B.Ashok Kumar

Petitioner

And

Employees Provident Fund Organisation,
Bhavishya Nidhi Bhawan,
New Delhi, rep. by its Commissioner
and others.

Respondents



This court made the following :

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ORDER:

Heard learned counsel for the petitioner and learned standing counsel for Employees Provident Fund Organization.

2. Petitioner in this Writ Petition is enrolled under the Employees Pension Scheme, 1995 (for short, 'the Scheme'). Initially, the maximum pensionable salary was Rs.5,000/-, but later revised to Rs.6,500/-. The Scheme also enables contribution by the employee over and above Rs.6,500/- and if such contribution is made, the employee is entitled to additional pension. Accordingly, the petitioner has contributed higher amount over and above Rs.6,500/-. Based on the contributions made, his pension was revised in the year 2018-19 and amounts were also paid. That being so, from June, 2019, stopped paying revised pension, later the EPF authorities recovered the said amounts for the months June and July in the form of deducting from bank accounts.

3. In this writ petition, petitioner challenge the decision of the EPF authorities in *suo-motu* undertaking revision of the pension payable to them to lower stage and recovering the said amounts.

4. According to learned counsel for the petitioner, no prior notice or opportunity was given to the petitioner and a right accrued to a retired employee cannot be altered/taken away without following due process.

5. As fairly submitted by learned standing counsel for Employees Provident Fund Organization, no prior notice or opportunity was given to the petitioner and straight away the lower

pension was determined and excess amount paid was adjusted from the bank account and no procedure was followed before undertaking such exercise. He would further submit that the EPF authorities would follow the due procedure before affecting pension payable to the petitioner.

6. Having regard to the said submission, the Writ Petition is allowed. The EPF authorities are directed to continue to pay the higher pension as already determined. If any recovery is already affected, that amount shall immediately be credited to the account of the petitioner. However, it is open to the EPF authorities to take further steps as warranted by law. In the show cause notice, the EPF authorities shall give all the details to the petitioner so as to enable him to submit his explanation. It is needless to observe that the petitioner must be put on notice and must be given opportunity to submit his written explanation and on due consideration of the same, appropriate decision shall be made by assigning due reasons in support of the decision and communicate to the petitioner. Until such decision is made and communicated to the petitioner, the petitioner shall be continued to pay the revised higher pension. Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO,J

Date: 1.10.2019
DA

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