



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 04.12.2020**

**CORAM:**

**THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY**

**Writ Petition (MD)No.17696 of 2020**

A.Muthukrishnan ... Petitioner

Vs.

1.The Commissioner,  
Employment Provident Fund Organisation,  
Bhavishya Nidi Bhawan,  
No.14, Bhikarji Cama Place,  
New Delhi 110 066.

2.The Regional Provident Fund Commissioner (Pension),  
Regional Employment Provident Fund Organisation,  
No.18, Madurai Road,  
Trichirapalli.

3.The Managing Director,  
N.P.K.R.Sugar Mills Limited,  
Thalainayar,  
Nagapattinam District.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the second respondent to pay the petitioner, the revised pension by extending the benefit of amended Clause 11(3) of Section 6A of the Employment Pension Scheme, 1995, by disposing his representation, dated 25.08.2020, in the light of the judgment dated 04.10.2016, made in R.C.Gupta & others etc., vs. Regional Provident Fund Commissioner, Employees Provident Fund Organisation and others etc., by the Hon'ble Supreme Court.

|                 |   |                                                       |
|-----------------|---|-------------------------------------------------------|
| For Petitioner  | : | Mr.R.Suriyanarayanan                                  |
| For Respondents | : | Mr.Su.Sampathkumar for<br>Mr.Senthilkumar Ramamoorthy |

**O R D E R**

This writ petition has been filed for a direction to the second respondent to pay the revised pension to the petitioner, by extending the benefit of amended Clause 11(3) of Section 6A of the



Employment Pension Scheme, 1995, by disposing his representation, dated 25.08.2020, in the light of the judgment dated 04.10.2016, made in ***R.C.Gupta & others etc., vs. Regional Provident Fund Commissioner, Employees Provident Fund Organisation and others etc.,*** by the Hon'ble Supreme Court.

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2. The learned counsel appearing for the petitioner submitted that the employer of the petitioner has deducted 8.33% salary from his actual salary. Therefore, he is entitled to get full pension based on the contribution of his salary. He further submitted that as per the judgment of the Hon'ble Apex Court dated 04.10.2016 made in ***R.C.Gupta & others etc., vs. Regional Provident Fund Commissioner, Employees Provident Fund Organisation and others etc.,*** if the contribution made for 8.33% by any employee on the actual salary received, he is entitled to get full pension, as he is eligible as per the contribution made. In the present case, he has been receiving the pension from the second respondent as per the ceiling limit in Clause 11(3) of the Pension Scheme. But however, there is no ceiling limit and cut off date to determine the eligibility of the employee in Clause 11(3) of the Pension Scheme. The main contention of the respondents is that the contribution was not paid under the Pension Scheme as on 16.03.1996. However, the Hon'ble Supreme Court of India made it clear that Clause 11(3) of the Pension Scheme has no cut off date to determine the eligibility of the employee. Therefore, the petitioner is entitled to receive full pension. In this regard, the petitioner has given a representation to the second respondent dated 25.08.2020. But the second respondent has not taken any steps to dispose of the representation of the petitioner, dated 25.08.2020.

3. The learned counsels appearing for the respondents fairly submitted that the representation of the petitioner, dated 25.08.2020, will be considered in the light of the judgment of the Hon'ble Supreme Court in the case of ***R.C.Gupta & others etc., vs. Regional Provident Fund Commissioner, Employees Provident Fund Organisation and others etc.***

4. In view of the submissions made by the learned counsel on either side, this Court directs the second respondent to dispose of the representation of the petitioner, dated 25.08.2020, in the light of the law laid down by the Hon'ble Supreme Court, in the case of ***R.C.Gupta & others etc., vs. Regional Provident Fund Commissioner, Employees Provident Fund Organisation and others etc.,*** within a period of twelve weeks from the date of receipt of a copy of this order.



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5. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

akv

**Note:**

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Commissioner,  
Employment Provident Fund Organisation,  
Bhavishya Nidi Bhawan,  
No.14, Bhikarji Cama Place,  
New Delhi 110 066.
- 2.The Regional Provident Fund Commissioner (Pension),  
Regional Employment Provident Fund Organisation,  
No.18, Madurai Road,  
Trichirapalli.

+1 cc to Mr.Su.Sampathkumar , Advocate SR.No.24073

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