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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.16252 of 2021

R.Ramalingam

...Petitioner

-Vs-

1.The Regional Provident Fund

Commissioner - I,
Employees' Provident Fund
Organization,
(Ministry of Labour, Govt. of India),
Regional Office,
Bhavishyanidhi Bhavan,
P.B.No.3875, Dr.Balasundaram Road,
Coimbatore - 641 018.

2.The Assistant Provident Fund

Commissioner (Legal),
Employees' Provident Fund
Organization,
(Ministry of Labour, Govt. of India),
Sub-Regional Office,
P.B.No.588, Sree Complex, 'D' Block,
No.18, Madurai Road, Trichy - 620 008.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the orders passed by the second respondent in CB / TRY / Adv. Notice-AJT / PP0.20358 / Legal Cell / 2021 dated 30.06.2021 and quash the same and consequently direct the respondents to settle the entire amount credited under the "Return of Capital" relating to provident fund Account No.TN / CHE / 11332 / 1017 and further restore the full pension payable to the petitioner.



For Petitioner : Mr.S.Kamadevan

For Respondents : Mr.M.Palanimuthu

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ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. The petitioner herein, who is a pensioner, had originally nominated his wife for the family pension. At the time of exercising his option, the petitioner chose to receive the revised pension during his lifetime with 10% of Return of Capital on his death. Such an option was exercised in accordance with paragraph 13 of the Employees' Pension Scheme, 1995. The petitioner's nominee, namely his wife, pre-deceased him and therefore, the petitioner now seeks for return of the 10% commuted amount, since he is of the view that there are no other person available for re-nomination in the place of his deceased wife.

3. Through the impugned order dated 30.06.2021, his request was rejected, stating that under paragraph 13(1) of the Employees' Pension Scheme, 1995, the pensioner is required to submit a fresh nomination for the Return of Capital and that he cannot seek for return of the commuted amount.

4. The impugned order cannot be sustained on the simple ground that paragraph 13 of the Employees' Pension Scheme, 1995 came to be deleted through a notification in GSR.688E, dated 26.09.2008 and the petitioner's request for return of the 10% commuted amount has been rejected only by placing reliance on the explanation to paragraph 13 of the deleted clause. Admittedly, there is no other provision or regulation in the Employees' Provident Fund Organization, which mandates that a pensioner should re-nominate another person when his original nominee had pre-deceased him. In the absence of any such regulation and in the background of paragraph 13 of the Employees' Pension Scheme, 1995 having been deleted, the reasoning assigned in the impugned order cannot be sustained. Consequently, the petitioner would be entitled for the relief he seeks for.

5. In the result, the impugned order dated 30.06.2021



passed by the second respondent herein is quashed. Consequently, there shall be a direction to the respondents herein to settle the entire amount credited under Return of Capital relating to his Provident Fund Account No.TN/CHE/11330/1017 and consequently, restore the full pension payable to the petitioner forthwith. The respondents shall endeavour to make the aforesaid settlement and restore the full payment, atleast within a period of twelve weeks from the date of receipt of a copy of this order. Accordingly, the writ petition stands allowed. No costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

ata/hvk

To

1.The Regional Provident Fund

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SSV(CO)
SB(02/11/2021)