IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 3166 OF 2021

Murphy India Employees Union .. Petitioner
Vs.
The Regional Provident Fund Commissioner
Mumbai and ors. .. Respondents

Ms. Jane Cox a/w Ms. Rohini Thyagarajan, for the Petitioner.
Mr. Ravi S. Rattesar, for Respondent No.1.
Ms. Meena H. Doshi, for Respondents No. 2 to 5.

CORAM : DIPANKAR DATTA, CJ. &
M. S. KARNIK, J.

DATE : SEPTEMBER 12, 2022

P.C. :

1. Rule. Rule is made returnable forthwith. Heard Counsel for the parties.

2. The Provident Fund ("PF") dues of 20 erstwhile employees of Murphy India Ltd., concerned in the Petition, are admittedly outstanding and payable for the period 01.05.1991 to 31.07.1996 with statutory interest till the date of payment. The names of the 20 erstwhile employees of Murphy India Limited who are concerned in this petition are as listed in **Annexure A** of the compilation tendered on 12.09.2022 by the parties. The Petitioner Union/concerned employees and the Respondent No. 2 Company have agreed

on the amounts due, with interest, as on June 2019, as per the statement annexed at Exhibit "KK" to the Petition, totalling an amount of Rupees Fifty Eight Lakhs, Seventy Four Thousand, Six Hundred & Ninety Two (Rs. 58,74,692/-) as on June 2019. As on 31.08.2022, the total amount, with interest, is Rs. 74,94,591.53.

3. The Respondent No. 2 has forwarded cheques issued by the Respondent No. 6 Trust, bearing Nos. 805930, 805931, 805932, 805933, 805934 and 805936, drawn on State Bank of India, Thane Main Branch, dated 29.08.2022 totaling to an amount of Rs. 50,39,890.31 (principal amount and interest calculated up until 31.8.2022) to the Respondent No.1 Office on 1.09.2022, duly signed by the Trustees of the Respondent No. 6 Trust. The receipt of the same is acknowledged by the Respondent No. 1. Consequently, the balance in the Respondent No. 6 Trust has become Nil. The Respondent No. 2 has produced a Bank Statement from the State Bank of India to certify that there is no balance remaining in the said Respondent No. 6 Trust, a true copy of which is annexed hereto as **Annexure "B"** of the compilation tendered.

4. The Respondent No. 6 Trust has now become non-operational and defunct. All necessary documents relating to the transfer of funds from the Trust Fund to the account of the Respondent No. 1 EPFO shall be duly signed by the Trustees of the Respondent No. 2 Company and the two

employee Trustees on the Trust Board. For the said purpose, the two employee trustees viz. Mrs. Rosy Pinto and Mr. S.V. Rane shall, on the request of the Respondent No. 2 Company, sign any documents etc. required for the same, but shall have no liability whatsoever in respect of the Respondent No. 6 Trust as they have become trustees pursuant to directions of the Respondent No. 1 to reconstitute the Respondent No. 6 Trust only so as to make the payments to the presently concerned 20 employees.

5. Upon the aforesaid formalities being completed, the Respondent No. 1 EPFO shall declare that the Trust is wound up and intimate this to the Petitioner Union and the Respondent No. 2 Company. Upon such intimation being received, the Company Trustees and the Employee Trustees shall stand relieved.

6. It is agreed between the Petitioner and the Respondent No. 2 Company that the principal amount of the total PF contributions in respect of the said 20 erstwhile employees for the period 1.5.1991 to 31.5.1993 (as deposited in the Trust Fund) is Rs. 1,85,264.00, whereas the total PF contributions in respect of the said 20 erstwhile employees for the period 1.6.1993 to 31.7.1996 is Rs. 3,57,472.00. Statutory interest on the said amounts is payable and it is common ground between the parties that the 20 erstwhile employees and the Respondent No. 2 had worked out amongst themselves the actual amount due

towards PF contributions for the aforementioned period with interest as of June 2019 and all the 20 employees have signed endorsing the correctness of the calculations prepared jointly. These calculations are part of Exhibit "KK" at pages 266 to 367 of the Writ Petition. Admittedly, these calculations were prepared and signed in July 2019. The amount inclusive of the principal amount and the interest at compounding rate fixed by the EPFO as on 31.8.2022 is Rs. 74,94,591.53. A statement showing the amounts due to each of the concerned employees as on 31.08.2022 is annexed as **Annexure "C"** of the compilation dated 12.09.2022. The amount in the Trust Fund as on 31.8.2022 and which has been transferred, as stated above in para 3, is Rs. 50,39,890.31. The balance now payable by the Respondent No. 2 Company is Rs. 24,54,701.22.

7. The Respondent No. 2 Company shall deposit with the Respondent No. 1 a sum of Rs. 24,54,701.22, being the shortfall in the total amount due to the 20 erstwhile employees of Murphy India Ltd., within one (1) week from the date of this Order.

8. Within three (3) weeks from today, the 20 concerned employees shall submit to the Respondent No. 2 Company their application forms for withdrawal of PF, along with their respective Aadhar and PAN Cards and bank account details. Within one (1) week of its receipt thereof the Respondent No. 2 Company shall process/sign the application forms, as

the employer as required under the Employees Provident Funds and Misc. Provisions Act, 1952 (“Act”), and forward the same to the Respondent No. 1 EPFO along with the Aadhar and PAN Cards and bank account details given by the employees.

9. Along with the same, the Respondent No. 2 Company and the Petitioner Union shall give a joint letter addressed to the Respondent No. 1 confirming the names of the concerned 20 employees and their dates of joining and dates of termination of service. This joint letter is required to be submitted as the Respondent No. 2 Company is no longer in possession of the salary slips or employment details of the employees, and the employees do not have any such details or documents, so many years having passed.

10. The Respondent No. 2 has stated before the Respondent No. 1 that the documents required by the PF Authorities for the purpose of reconciliation are not available in the records of the Company save and except the documents which are already filed by the Company with the PF Authority vide letter dated 21st March 2022. The said letter was submitted after the hearing on 14.3.2022 held by the Regional Provident Fund Commissioner as per the directions of this Hon’ble Court vide order dated 25.2.2022. Since, the concerned employees and the Company have agreed upon and accepted the amount due and payable to

the said 20 erstwhile employees, the PF Authorities may proceed to credit the PF contributions and the amounts due to the 20 erstwhile employees as per the calculation of the Company and the employees as set out in Exhibit KK, duly updated up to 31st August 2022 as set out in **Annexure "C"** of the compilation. The Respondent No. 1 will act on the basis of the information given in the said joint letter and shall not call for any further documents or information (apart from the KYC documents), either from the Respondent No. 2 or Petitioner / individual workmen in order to allot UAN & PF Code numbers to each of the workmen, open and make operational their individual accounts and disburse the amounts to each of the presently concerned 20 employees.

11. On receipt of the above information and documents referred to in para 8 and the joint letter referred to in para 9, the Respondent No. 1 shall generate individual PF account numbers and Universal Account Numbers (UAN) for each of the concerned employees and carry out the KYC of the employees, all of which process will be done manually. This process shall be completed within 3 months from the Respondent No. 1 receiving the above-mentioned forms and documents. In the event that the Respondent No. 1 encounters any technical difficulties in the course of the above-mentioned process, it may apply to the Court for an extension of time to complete the same. Where any of the concerned employees have died before the generation of

the UAN / PF Code numbers the Respondent No. 1 EPFO shall generate the UAN / PF Codes in the name of the legal heirs(s) upon satisfaction as per the Rules that they are the legal heir(s).

12. Within one (1) week of the completion of the above process, the Respondent No. 1 shall deposit in the individual accounts of each of the employees/ their legal heirs the amounts indicated in the chart at Exhibit "C" of the compilation with statutory interest on and after 1.09.2022 till the date of such deposit and transfer the said amount to the bank accounts of each of the employees / their legal heirs with statutory interest from 31.08.2022 till the date of such transfer.

13. It is clarified that should any of the presently concerned 20 employees submit their claim forms or documents late, then the Respondents Nos. 1 and 2 shall not wait for their claim forms /documents but shall proceed to deal with the forms and documents of those employees who submit the same on time, as per the time frames given in paras 8, 10, 11 and 12. In respect of any employee(s) who are unable to submit their claim forms or documents within 3 weeks from today, the Respondent Nos. 1 and 2 shall, upon the receipt of such employee(s)' claim forms and documents, follow the time frames stipulated in paras 8, 10, 11 and 12 starting from the date on which each respective employee submits his/her claim form and

documents.

14. The Respondent No. 2 Company states that an amount of Rs. 3,22,592.00 inclusive of interest towards the PF contribution on the arrears of earned wages of the present concerned workmen as per the Supreme Court Order dated 25.4.2006 has been deposited by the Respondent No. 2 with the office of the Respondent No. 1. The challan in respect thereof is at Exhibit "A" to the Affidavit of Respondent No.2 dated 24.2.2022. The Respondent No. 2 states that it has also deposited an estimated principal amount of PF contributions of approximately Rs. 3,57,472 with Form No. 12A for the period 1.6.1993 to 31.7.1996. Both sets of these amounts (Rs. 3,22,592.00 plus approximately Rs. 3,57,472/-) have earned statutory interest during the intervening period.

15. The Respondent No. 2 Company states that about approximately 860 employees of the erstwhile Murphy India Ltd. had accepted the VRS during the period 1992 to 1994 and no outstanding PF claims have been made by any of the said erstwhile employees till date. Thereafter, a number of employees of the erstwhile Murphy India Ltd. who were continued in employment by the Respondent No. 2 left their employment with the Respondent No. 2 and have settled their legal dues. In the event of any genuine claim being made by such ex-employees, after the distribution of the amount to the present concerned 20 employees/ their legal

heirs, the balance amount in the MH 45 account may be utilised by the Respondent No. 1 for payment of any claims if received within a period of 3 years from the date of this Order. By way of abundant caution, it is made clear that no further claims shall be made by the said 20 erstwhile employees listed in **Annexure A** of the compilation dated 12.09.2022 nor shall the provident fund authorities proceed against the company nor these 20 workmen shall be entitled to raise any claim before the Employees Provident Fund authorities for any coercive action or otherwise. The Respondent No. 2 undertakes that if there are any genuine claims from erstwhile employees of Murphy India Ltd, (other than the 20 erstwhile employees), who were issued appointment letters by the Respondent No. 2, and in the event of the claims exceeding the amount already deposited with the EPFO (excluding the amounts deposited for the presently concerned 20 concerned employees), the Respondent No. 2 shall abide by the adjudication of such claims, if any, by the office of the EPFO and pay the amount so adjudicated. If no claims are received, or some are received and adjudicated within the period of 3 years, the unutilized balance, if any, in MH-45 account shall be transferred to the unclaimed deposit account of the Regional PF Fund as maintained by the Respondent No. 1 as per the rules for the same.

16. The Company shall pay costs of Rs. 75,000/- to the Petitioner Union, by cheque in the name of the Union,

towards legal expenses within 1 week from today.

17. We see no reason to keep the petition pending in view of the above terms which adequately protects the interest of the 20 employees in getting their legitimate dues expeditiously before the consequential dissolution of the Trust and the release of the Trustees on the payment of the full provident fund amounts to the presently concerned 20 employees/ legal heir(s) and upon the dissolution of the Respondent No. 6 Trust and the release of the Trustees.

18. The writ petition is disposed of in the above terms with no order as to costs.

(M. S. KARNIK, J.) **(CHIEF JUSTICE)**