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W.P. No. 566 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2023

CORAM:

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

and

THE HON'BLE MR. JUSTICE K. RAJASEKAR

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&

W.M.P. No. 572 of 2019

1. V. Nithyanandan
2. S. Shivaji
3. S. Ekambaram
4. T.R. Murugan
5. V. Jayaraman
6. A.R. Vijayakumar
7. K. Ganesan
8. N. Palani
9. A. Vijayakumar
10. Suguna Rajendran
11. P. Pachaiyappan
12. K. Kannappan
13. T. Punniyaswamy
14. G. Kannan
15. M. Jagadeesan
16. E.A. Damodaran
17. R. Soosai
18. N. Kannappan
19. K. Karunamurthy
20. R. Balachandran
21. K. Devarayan
22. V. Karthikeyan
23. N. Selvaraj
24. K. Perumal
25. M. Singaravel
26. V. Radhakrishnan



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27. T.N. Subramanian
28. T. Babu
29. G. Narayanan
30. M. Banumathy
31. D. Purushothaman
32. P. Sundaramurthy
33. R. Mani
34. V. Rajendran
35. K. Elumalai
36. A. Gunasekaran
37. N. Thirukalathi
38. A.D. Arumugam
39. B. Thangamani
40. A. Kandasamy
41. M. Panneerselvam
42. S. Ramalingam
43. S. Ethiraj
44. V. Natarajan

..Petitioners

Vs.

1. Union of India
represented by its Secretary to Government of India
Ministry of Labour & Employment
New Delhi 110 001
2. The Regional Provident Fund Commissioner,
Opp Swagat Hotel, Royapettah High Road,
Chennai, Tamil Nadu – 600 014.
3. The Assistant Provident Fund Commissioner,
(Pension),
Employees' Provident Fund Organization,
Regional Office, S.1, TNHB, Phase- III,
Sathuvachari, Vellore – 632 009.
4. Kancheepuram Central Cooperative
Bank Limited,
rep. by its General Manager,
Kancheepuram

..Respondents



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issue of a Writ of Mandamus directing respondents 1 to 3 herein to accept the return and remittance of the amounts being the difference between contribution on ceiling limit and contribution on actual wages disbursed to and withdrawn by the petitioners at the time of their retirement by superannuation without insisting on any payment of interest thereon and to pay the full pension based on their employer's contribution on actual wages remitted by employer of the petitioner with arrears and prospective payments in the light of the order of the Hon'ble Supreme Court dated 04.10.2016 in the case of R.C.Gupta and others V. Regional Provident Fund Commissioner, The Employees Provident Fund Organisation and others.

For Petitioners :: Mr.P.K. Rajagopal

For Respondents :: Mr.A. Veeramani for R1
Mr.R. Vishnu for R2 & R3
Mr.R. Nandhini for
Mr. R. Gopinath for R4

ORDER

(Made by S. Vaidyanathan,J.)

This writ petition is filed for issue of a Writ of Mandamus directing respondents 1 to 3 herein to accept the return and remittance of the amounts being the difference between contribution on ceiling limit and contribution on actual wages disbursed to and withdrawn by the petitioners at the time of their retirement by superannuation without insisting on any payment of interest thereon and to pay



the full pension based on their employer's contribution on actual wages remitted by employer of the petitioner with arrears and prospective payments in the light of the order of the Hon'ble Supreme Court dated 04.10.2016 in the case of R.C.Gupta and others V. Regional Provident Fund Commissioner, The Employees Provident Fund Organisation and others.

2. Today, when this matter was taken up for hearing, Mr. Vishnu, learned Standing Counsel for respondents 2 & 3/EPFO submitted that the issue involved in this writ petition is covered by the order passed by a Coordinate Bench of this Court in **P. Chandrasekaran v Union of India & 4 others**¹, in which, one of us (SVNJ) was a member, which was rendered following the 3 Judge Bench judgment of the Supreme Court in **The EPFO and another v Sunil Kumar B. and others, etc.**².

3 However, according to Mr. Vishnu, paragraph 4 of the order passed by this Court in **P. Chandrasekaran, supra**, which reads as under, cannot survive any more, in view of the fact that the time granted by the Supreme Court in **Sunil Kumar B., supra**, had already expired on 11.07.2023:

“4. If the employees could not access the site, they shall take a screenshot and enclose the same with the hard copy to enable the Employees (sic) Provident Fund Organisation to process their option forms.”

The submission made by Mr. Vishnu in paragraph 3, *supra*, is recorded and



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in view of the submission made by him in paragraph 2, *supra*, this writ petition also is disposed of on the same terms in which **P. Chandrasekaran**, *supra*, was disposed of. No costs. Connected C.M.P. is closed.

(S.V.N., J.) (K.R.S., J.)
25.09.2023

nv

To

1. The Secretary to Government of India
Ministry of Labour & Employment
New Delhi 110 001
2. The Regional Provident Fund Commissioner,
Opp Swagat Hotel, Royapettah High Road,
Chennai, Tamil Nadu – 600 014.
3. The Assistant Provident Fund Commissioner,
(Pension),
Employees' Provident Fund Organization,
Regional Office, S.1, TNHB, Phase- III,
Sathuvachari, Vellore – 632 009.
4. Kancheepuram Central Cooperative
Bank Limited,
rep. by its General Manager,
Kancheepuram.

S. VAIDYANATHAN, J.



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