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W.P.No.21592 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.21592 of 2023

And

W.M.P.Nos.20965 and 20966 of 2023

AFT Panjalai Oivu Petra Oozhiyargal Sangam

Represented by its President

B.Sathiyaseelan

... Petitioner

Vs.

- 1.Union of India,
Rep. by the Secretary to Government of India,
Ministry of Labour & Employment,
New Delhi – 110 001.
- 2.Central Provident Fund Commissioner,
Employees Provident Fund Organisation,
Bhavishya Nidhi Bhawan,
14, Bhikaji Cama Palace,
New Delhi – 110 066.
- 3.Additional Central Commissioner (HQ) Legal,
Employees Provident Fund Organisation,
Bhavishya Nidhi Bhawan,
14, Bhikaji Cama Palace,
New Delhi – 110 066.
- 4.The Regional Provident Fund Commissioner – I,
Employees Provident Fund Organisation,
Bhavishya Nidhi Bhawan,
14, Bhikaji Cama Palace,
New Delhi – 110 066.



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5. The Regional Provident Fund Commissioner – II,
Regional Office at No.101,
100 Ft. Road, Venni Complex,
Cholan Nagar, Mudaliyarpet,
Puducherry – 605 004.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the entire records pertaining to and pursuant to the proceedings in Circular No.Pension/2022/55893/15785 dated 25.01.2023 issued by the fourth respondent and the consequential proceedings of the fifth respondent in TN/RO/PDY/ Higher Pension/Revision/2022 – 23 dated 27.01.2023 issued to the members of the petitioner Sangam and to quash the same and to direct the respondents to allow all the members of the petitioner Sangam to continue to draw the pension on higher wages without any reduction.

For Petitioner : Mr.M.Ravi
For Respondents : Mr.A.Veeramani
CGC

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the entire records pertaining to and pursuant to the proceedings in Circular No.Pension/2022/55893/15785 dated 25.01.2023 issued by the fourth respondent

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and the consequential proceedings of the fifth respondent in TN/RO/PDY/ Higher Pension/Revision/2022 – 23 dated 27.01.2023 issued to the members of the petitioner Sangam and to quash the same and to direct the respondents to allow all the members of the petitioner Sangam to continue to draw the pension on higher wages without any reduction.

2.The learned counsel appearing for the petitioner submitted that, the members of petitioner Sangam are members of EPS' 95 Scheme and have been paid higher pension from the date of retirement with due approval of all the Authorities in compliance of the order dated 04.10.2016 of the Hon'ble Apex Court in Civil Appeal Nos.10013 – 10014 of 2016 (arising out of SLP (C) Nos.33032 – 33033 of 2015) [R.C.Gupta and others Vs. Regional Provident Fund Commissioner and others] which have been upheld by the Hon'ble Apex Court by order dated 04.11.2022 in civil appeals arising out of SLP (C) No.8658 – 8659 of 2019 (The Employees Provident Fund Organisation and another Vs. Sunil Kumar B. and others).

3.The learned counsel appearing for the petitioner further submitted that, the respondents 4 and 5 vide impugned proceedings



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are contemplating reduction and recovery of the higher pension already being paid and if they are permitted to proceed further, the pensioners who have been extended higher pension on the ratio laid down in R.C.Gupta case would be seriously prejudiced resulting in substantial reduction in pension and recovery of the already paid pension amount for which they are legally entitled.

4.However, this Court perused the proceedings impugned in this writ petition. Perusal of the proceedings of the fourth respondent dated 25.01.2023 makes it clear that ACC Zones and RPFs of the regions are advised to ensure that pension on wages exceeding wage ceiling of Rs.5000/- or Rs.6500/- is sanctioned/ continued only in cases which fall within the directions contained in Para 44 (ix) read with Para 44(vi) of Hon'ble Supreme Court judgment dated 04.11.2022. Accordingly, if in any case, pension was revised erroneously, such pension may be immediately stopped and restored to pension on wages up to the ceiling of Rs.5000/- or Rs.6500/- only, in accordance with directions contained in Para 44 (ix) read with Para 44 (v) of Hon'ble Supreme Court judgment dated 04.11.2022. It is further stated that utmost care should be taken to identify cases where higher pension was granted on account of judgment of any Court and



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in such cases favourable order shall be obtained from the concerned Court citing the order of Hon'ble Supreme Court dated 04.11.2022 before going ahead with stopping/ restoration of pension to wages up to ceiling of Rs.5000/- or Rs.6500/-.

5.Hence, this Court is of the opinion that there is no adverse order passed in the impugned proceedings. This Court directs the respondents to strictly comply with the order dated 04.10.2016 of the Hon'ble Apex Court in Civil Appeal Nos.10013 – 10014 of 2016 (arising out of SLP (C) Nos.33032 – 33033 of 2015) [R.C.Gupta and others Vs. Regional Provident Fund Commissioner and others] which have been upheld by the Hon'ble Apex Court by order dated 04.11.2022 in civil appeals arising out of SLP (C) No.8658 – 8659 of 2019 (The Employees Provident Fund Organisation and another Vs. Sunil Kumar B. and others).

6.With the above observations, this writ petition stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Speaking Order/ Non Speaking Order
Index: Yes/ No Internet: Yes/ No

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