IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 05TH DAY OF APRIL 2019 / 15TH CHAITHRA, 1941

RP.No. 515 of 2017 IN CO.ADJ.APPEAL. 15/2014

REVIEW PETITIONERS/NOT PARTIES IN THE ABOVE COMPANY ADJUDICATION APPEAL:

1 SASEENDRAN.A, ETTAMMAL HOUSE, ERINAV P.O, CHERUKUNNU VIA, KACHIERITHARA.

2 VIJAYAN.CK, POURNAMI, MOWANCHERRY P.O, MACHERI, KANNUR

3 RAJAN.T, THACHOTH HOUSE, THILANNUR, KAPPAD P.O, KANNUR 670 006

4 SURESH BABU.M.C MANDEN HOUSE, PAYYAMBALAM, KANNUR 670 001.

BY ADVS.
SRI.THOMAS ABRAHAM
SMT.MERCIAMMA MATHEW
SRI.ASWIN.P.JOHN

RESPONDENTS/APPELLANT AND RESPONDENT:

1 THE ASSISTANT PROVIDENT FUND COMMISSIONER (L) EMPLOYEES PROVIDENT FUND ORGANISATION, SUB REGIONAL OFFICE, V.K.COMPLEX, FORT ROAD, KANNUR - 670 001.

2 OFFICIAL LIQUIDATOR HIGH COURT OF KERALA, ERNAKULAM

BY ADVS.
SRI.K.MONI
SRI.ASHOK B.SHENOY, SC, ANERT

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 05.04.2019, ALONG WITH RP.318/2018, RP.337/2018, RP.390/2018, RP.701/2017, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 05TH DAY OF APRIL 2019 / 15TH CHAITHRA, 1941

RP.No. 318 of 2018 IN CO.ADJ.APPEAL. 2/2016

REVIEW PETITIONERS/RESPONDENTS 2 TO 5:

1 SASEENDRAN A, ETTAMMAL HOUSE, ERINAV P.O, CHERUKUNNU VIA, KACHERITHARA.

2 VIJAYAN.C.K, POURNAMI, MOWANCHERRY P.O, MACHERI, KANNUR

3 RAJAN.T, THACHOTH HOUSE, THILANNUR, KAPPAD P.O, KANNUR 670 006

4 SURESH BABU.M.C MANDEN HOUSE, PAYYAMBALAM, KANNUR 670 001.

BY ADVS.
SRI.THOMAS ABRAHAM
SMT.MERCIAMMA MATHEW
SRI.ASWIN.P.JOHN

RESPONDENTS/APPELLANT AND RESPONDENT:

1 SATHEESH BABU.M, S/O.KRISHNAN, KAKKATTUCHALIL HOUSE, THOTTADA P.O, KANNUR 670 007

2 OFFICIAL LIQUIDATOR HIGH COURT OF KERALA, ERNAKULAM 682 031

BY ADV. SRI.K.MONI

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 05.04.2019, ALONG WITH RP.390/2018, RP.337/2018, RP.701/2017, RP.515/2017, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 05TH DAY OF APRIL 2019 / 15TH CHAITHRA, 1941

RP.No. 337 of 2018 IN CO.ADJ.APPEAL. 4/2017

REVIEW PETITIONERS/APPELLANTS:

1 SASEENDRAN.A, TTAMMAL HOUSE, ERINAV P.O, CHERUKUNNU VIA,KACHERITHARA

2 VIJAYAN.C.K, POURNAMI,MOWANCHERRY P.O, MACHERI,KANNUR

3 RAJAN.T, THACHOTH HOUSE, THILANNUR, KAPPAD P.O, KANNUR 670 006

4 SURESH BABU.M.C
MANDEN HOUSE, PAYYAMBALAM, KANNUR 670 001.

BY ADV. SRI.THOMAS ABRAHAM

RESPONDENTS/RESPONDENT:

1 OFFICIAL LIQUIDATOR
HIGH COURT OF KERALA,ERNAKULAM

2 DINESHAN.A, S/O.POCKKAN,C.H.HOUSE, KOTTANICHERI P.O, EACHUR,KANNUR 670 591

BY ADV. SRI.K.MONI

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 05.04.2019, ALONG WITH RP.390/2018, RP.318/2018, RP.701/2017, RP.515/2017, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 05TH DAY OF APRIL 2019 / 15TH CHAITHRA, 1941

RP.No. 390 of 2018 IN MCA. 16/2017

REVIEW PETITIONERS/RESPONDENTS 1 TO 4:

1 SASEENDRAN.A, ETTAMMAL HOUSE, ERINAV P.O, CHERUKUNNU VIA, KACHERITHARA

2 VIJAYAN.C.K, POURNAMI,MOWANCHERRY P.O, MACHERI, KANNUR

3 RAJAN.T, THACHOTH HOUSE, THILANNUR, KAPPAD.P.O, KANNUR 670 006

4 SURESH BABU.M.C
MANDEN HOUSE, PAYYAMBALAM, KANNUR 670 001.

BY ADVS.
SRI.THOMAS ABRAHAM
SMT.MERCIAMMA MATHEW
SRI.ASWIN.P.JOHN

RESPONDENT/APPLICANT:

OFFICIAL LIQUIDATOR
HIGH COURT OF KERALA,ERNAKULAM

BY ADV. SRI.K.MONI

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 05.04.2019, ALONG WITH RP.337/2018, RP.318/2018, RP.701/2017, RP.515/2017, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 05TH DAY OF APRIL 2019 / 15TH CHAITHRA, 1941

RP.No. 701 of 2017 IN CO.ADJ.APPEAL. 15/2014

REVIEW PETITIONERS/NOT PARTIES IN THE ABOVE COMPANY ADJUDICATION APPEAL:

1 P.B.PRAKIRTH
S/O.M.K.BALAKRISHNAN,PADMINI NIVAS, PO
PALLIKKUNNU,KANNUR DISTRICT,PIN 670 004.

2 JOY.D, C/O.VINCENT DICRUZE,
HOUSE NO.51/4,BARNASSERY P.O, KANNUR 670 013.

3 K.SANAD, AGED 57 YEARS
S/O.BHASKARAN,KUTHIRODAN HOUSE,
AZHIKODE SOUTH, KANNUR

4 SASEENDRAN.P.V, S/O.NARAYANAN, CHARANAKANDY
HOUSE, P.O.CHOWVA, KANNUR

5 S.MURUGAN, AGED 49 YEARS
S/O.A.SUBAYA, HOUSE NO.107,B4,
BARNASSERI, KANNUR 670 013.

6 P.B.ABDUL SHUKKOOR, AGED 59 YEARS
S/O.V.K.MAMMU,"SUMAYYA", P.O.PAPPINISSERI WEST,
KANNUR 670 565

7 M.ANILKUMAR, AGED 49 YEARS
S/O.M.KUMARAN(LATE), REVATHY NIVAS,
THILANORE ROAD, CHOWVA, KANNUR-18.

8 E.K.MOHANAN, AGED 49 YEARS
S/O.KUNHIRAMAN,ELLATHANKANDI HOUSE,
P.O.KADACHIRA, ADOOR, KANNUR

9 P.M.PAVITHRAN, AGED 50 YEARS
S/O.KANNAN NAMBIAR, CHANDROTH HOUSE,
P.O.MUNDALLUR, PERALASSERY,VADAKKUMPAD,
KANANUR 670 741

10 P.SUNDARAN, AGED 43 YEARS
S/O.P.P.SIDHARTHAN,32 ROOMS, NO.3 BAZAR,
KANNUR 670 001

11 M.SATHEESH BABU, AGED 43 YEARS
S/O.KRISHNAN,KAKKATIYALIL HOUSE,
P.O.THOTTADA, KANNUR

12 A.REGHUTHAMAN, AGED 59 YEARS
S/O.MANNAN,ALINKEEZHIL HOUSE,
AZHIKODE SOUTH P.O, KANNUR 670 001.

13 M.SUDHAKARAN, AGED 53 YEARS
S/O.KARUNAKARAN,MULLANKANDI HOUSE,
CHALAD, KANNUR

14 C.RAJENDRAN, AGED 51 YEARS
S/O.C.KUNHI KELU,CHELORAKANDY HOUSE,
ELAYAOOR P.O, MUNDAYAD,KANNUR

15 A.ARAVINDAN, AGED 56 YEARS
S/O.KUNHIRAMAN,PUTHIYAPPARAMBATH HOUSE,
P.O.ALAVI,PALLIYANMALA,KANNUR

16 M.BALAKRISHNAN, AGED 53 YEARS
S/O.U.K.KUNHAMBU,VADAKKEPARAMBU HOUSE,
P.O.MUNDAYAD, KANNUR 670 594.

17 M.P.YADYANATH, AGED 57 YEARS
S/O.M.P.VASUDEVAN,POURNAMI,NEAR JOHN MILL,
P.O.CIVIL STATION, KANNUR-2.

18 T.C.RATHNAKARAN, AGED 52 YEARS
S/O.CHATHU NAMBIAR, P.O.KIZHUNNA, KANNUR

19 A.DINESHAN, AGED 49 YEARS
S/O.C.H.POCKAN,C.H.HOUSE,KOTANICHIERRY,P.O,
EACHUR,KANUR

20 SATHEESHAN.P.P, AGED 46 YEARS
S/O.P.P.BALAKRISHNAN,PADINJAREPURAYIL HOUSE,
KARIKKANKULAM P.O, PAPPINIEESRY WEST, KANNUR

21 P.K.ANEESHKUMAR, AGED 46 YEARS
S/O.DAMODHARAN,SREELAKSHMI NIVAS,
ELAMBILANPARA P.O, ALAVIL, KANNUR 670 008

22 M.VISHALAKSHAN, AGED 51 YEARS
S/O.NARAYANAN,MANDOTHAN HOUSE,
NEAR KILASI LANE, AYIKKARA P.O, H.G.HOSPITAL,
KANNUR

23 PREMAN.T, AGED 56 YEARS
S/O.KUNHIRAMAN,KAKKATUCHALIL HOUSE,
P.O.THOTTADA, KANNUR

24 K.BALAKRISHNAN, AGED 56 YEARS
S/O.KUNHIRMAN,JYOTHIS,CHIRAKKUTHAZHE,
P.O,KIZHUNNA, KANNUR

25 V.K.PRABHANANDAN, AGED 50 YEARS
S/O.DAMODHARAN,NANDANAM,KOTTAPPALAM,
PAPPINESSERY WEST, KANNUR

26 PRAKASHAN.P.K, KUNDIL VALAPIL HOUSE, THALANNUR,
P.O.ATTADAPPA, KANNUR

27 K.RAGHAVA MARAR, S/O.KANNAN MARAR,
MAVILAKANDY HOUSE, DURGA ROAD, P.O.PALLIKUNNU,
KANNUR

28 M.V.PREMAN, S/O.M.V.BALAN, MEETHALE VEETIL,
P.O.PAPPINISSERY WEST, KANNUR

29 P.P.HAREESH, S/O.P.V.KRISHNAN,PUTHAN VEEDU, SATHRAM ROAD, THILANNUR, THAZHE CHOUVA P.O, KANNUR 670 018.

30 C.MANOHARAN, AGED 52 YEARS S/O.GOPALAN,CHENIYARAKKAL HOUSE, CHEMBILODE P.O, MOWANCHERY,KANNUR

31 P.PADMANABHAN S/O.A.KARUNAKARAN, MOTTAMMAL HOUSE, SOUTH BAZAR P.O, CIVIL STATION, KANNUR

32 TERENCE PETRIC S/O.IVAN LAZZAR, HOUSE NO.113E,BURNCHERRY,KANNUR 670 013.

33 K.M.PRASANNAKUMAR S/O.AMBUKUTTY, PRASANNAM, NEAR FISH MARKET, PALLIKUNNU, KANNUR

34 BALASUBRAMANIYAM.K.M LAKSHMISADANAM, THULICHERI P.O, KAKKAD, KANNUR 670 005.

35 NARAYANAN.C, S/O.KORAN, NAGATHANKOTTAYIL HOUSE, EDAKKAD P.O, KANNUR

36 DHARMESH.C.T, S/O.NARAYANAN, CHIMMINIYAN HOUSE, THAVAKKARA, KANNUR-2

BY ADV. SMT.M.R.JAYALATHA

RESPONDENTS/APPELLANT AND RESPONDENT:

1 THE ASSISTANT PROVIDENT FUND COMMISSIONER(L) EMPLOYEES PROVICENT FUND ORGANIZATION, SUB REGIONAL OFFICE, V.K.COMPLEX, FORT ROAD, KANNUR 670 001.

2 THE OFFICIAL LIQUIDATOR
HIGH COURT OF KERALA, ERNAKULAM

BY ADVS.
SRI.K.MONI
SMT.T.N.GIRIJA
SRI.ASHOK B.SHENOY, SC, ANERT

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 05.04.2019, ALONG WITH RP.390/2018, RP.337/2018, RP.318/2018, RP.515/2017, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.P. Nos. 515 & 701 of 2017
and
318, 337 & 390 of 2018

O R D E R

The petitioners are common in these five review petitions. They seek review of the interim order passed by this Court on 19.03.2018 directing the Official Liquidator to make payment of 50% of the amount granted by him on adjudication to the Badali workers. When the official liquidator failed to comply with the order, the Badali workers brought two contempt applications, and those applications are pending. The grievance of the review petitioners is that the order passed by the court requires clarification as to 50% of what amount will have to be paid to the Badali workers. On the first adjudication made by the Official Liquidator, nothing substantial was granted to the Badali workers. Their right and status was also

disputed by the permanent workers and the company people. But that issue, as to whether they are entitled for benefits, was considered by this Court in an earlier proceeding, and as per the order dated 05.03.2013, this Court has clarified in paragraph 4 of the order that, though the Badali workers are called Badali workers, they are actually, and in effect, the employees receiving not only a regular salary, but also various benefits including House Rent Allowance. This order was not challenged in appeal by anybody. Thus, this Court has once found that though Badali workers, they are entitled for the benefits, besides salary, because they are practically permanent employees of the company. At the first round, the Official Liquidator adjudicated their claims, and some nominal amount was granted. That order was challenged before this Court, and a re-

adjudication was ordered. After re-adjudication, the official Liquidator heard all the parties in detail, considered all relevant documents and registers, and passed a fresh order of adjudication granting some additional benefits to the Badali workers. This adjudication order is under challenge by the permanent workers in Co.Appln. No. 331 of 2014. Thus, it is a matter to be decided by this Court finally whether the Badali workers are entitled for huge benefits as found by the Official Liquidator on re-adjudication. Of course, as regards their right to get reliefs or benefits as employees of the company, there cannot be a doubt or dispute in view of the order of this Court dated 05.03.2013. The only scope of enquiry must be as regards the exact amount they are entitled to get.

2. In the explanation submitted by the Official Liquidator in the contempt proceeding, his

explanation is that it is not certain whether the 50% ordered by the court is 50% of the entire amount. I do not find any legal reason to review the order as such, because the right of the Badali workers to get benefits cannot be disputed, though the extent and measure of the said right will have to be adjudicated in appeal.

3. On a perusal of the materials including the review petitions, and also the explanation given by the Official Liquidator in the contempt applications, I find that practically the grievance of everybody is as regards the amount payable to the Badali workers. It appears that on re-adjudication, the Official Liquidator has granted huge benefits to the Badali workers. This is under challenge by the review petitioners and also the permanent workers. When there cannot be any doubt or dispute regarding the right of the

Badali workers also to get benefits under the law, the order as such cannot be reviewed, and the benefits cannot be denied to the Badali workers. I feel that a clarification and modification of the earlier orders will suffice, and a review as such is not necessary. There is no situation to review the order, and decide the issue afresh. When the review petitioners require only a clarification, and the Official Liquidator also requires such a clarification as to how the amount shall be disbursed, the Court can very well clarify and modify the order, without in fact reviewing the order as such .

4. On the finding that a review as such is not required in the present circumstances, the order dated 19.03.2018 will stand clarified and modified that instead of the 50% ordered by the court earlier, 1/3rd of the amount will suffice, and

it shall be 1/3rd of the amount additionally awarded by the Official Liquidator on adjudication. It is once more clarified that only the additional amount awarded by the Official Liquidator at the second round of re-adjudication shall be considered, and only 25% of that amount shall be paid to each Badali worker by the Official Liquidator.

With the above modification and clarification, the review petitions are closed. Payment shall be made by the Official Liquidator within a month from this date.

Sd/-

P.UBAID

Ds 08.04.2019 **JUDGE**