

Premkumar K.P. vs Union of India

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Court : Kerala

Decided On : Aug-22-2023

Judge : Honourable Mr.Justice Murali Purushothaman

Appeal No. : WP(C)/15162/2020

Appellant : Premkumar K.P.

Respondent : Union of India

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN
TUESDAY, THE 22ND DAY OF AUGUST 2023 / 31ST SRAVANA, 1945
PETITIONERS:

1 PREMKUMAR K.P. AGED 73 YEARS S/O.T.G.BHASKARA PILLAI,
NO.34/1241, PALAPPARAMBA ROAD, ELAMAKKARA, COCHIN-682
026, EPF A/C NO.KR/KKD/279/249, P.P.O.NO.KR/KCH/00038139. 2
P.V.RAPHEL, S/O.VARGHESE, PULICKAL HOUSE, CARDINAL
NAGAR, THRIKKAKKARA P.O., KAKKANAD, COCHIN-682 021, EPF
A/C NO.KRE/279/1381 PPO NO.18038. 3 C.RAMACHANDRAN,
S/O.K.VELAPPAN NAIR, DHANYA NIVAS, SUNDARAGIRI,

KALAMASSERY P.O., ERNAKULAM-683 104, EPF A/C NO.KR/279/67, PPO NO.KR.KCH/52975. 4 K.C.SREENIVASAN, S/O.CHENNAN, KANIYAMPADY, ASHRAMAM LANE, ALRA NO.83, AZAD ROAD, KALOOR, COCHIN-682 017, EPF A/C NO.KR/279/33, PPO NO.KR.KCH/54163. 5 V.MOHANDAS, S/O.LATE P.M.GANGADHARA MENON, NJRA-19, SIVAKRIPA, ASIWARYA LANE, PUNACKAL, ELAMAKKARA P.O., KOCHI-682

026. EPF A/C NO.KR/KKD/279/83, PPO NO.KR.KCH/58717.

6 SOMANATHAN NAIR.N., S/O.S.NARAYANA PANICKER, MANGAMADATHIL HOUSE, PANANGAD P.O., ERNAKULAM-682 506, EPF A/C NO.KR/KKD/279/757, PPO NO.KR.KCH/61555. 7 LALITHA.K.K. D/O.KOCHUKRISHNAN.K.K., PALAPPARAMBIL, THYKKUDAM, VYTTLA P.O., UDAYA ROAD, KOCHI-682 019, EPF A/C NO.KR/KKD/279/346, PPO NO.KR.KCH/46517. 8 LAILA.N.R. D/O.N.K.RAMAN, VYKATHUSSERIYIL HOUSE, BASIL ROAD, KOCHI-682 031, EPF A/C NO.KR//279/398, PPO NO.KR.KCH/62673. 9 T.C.AJITHKUMAR, S/O.T.V.CHANDRAN, THINAYATTU HOUSE, PYAPPILLY, VADAKKEKKARA P.O., NORTH PARAVUR, ERNAKULAM-683 522 EPF A/C NO.KR//279/33, PPO NO.KR.KCH/52620. 10 K.PEETHAMBARAN,

S/O.P.GOVINDAN, KALATHIL VEEDU, MUTHUKULAM NORTH, CHOOOLATHERUVE P.O., ALAPPHZHA-690 506, EPF A/C NO.KR/KKD/279/1363, PPO NO.KR.KCH/18165. 11 G.MOHANAN, S/O.P.K.GOVINDAN, G NILAYAM, KAITHAVANA, SANATHAPURAM WARD, SANATHAPURAM P.O., ALAPPUZHA-688 003, EPF A/C NO.KR//279/91, PPO NO.KR.KCH/33944. 12 V.P.THAMBAN, S/O.P.V.PADHMANABHAN, ALIPPILLY HOUSE, PUTHUKKALAVATTOM, ELAMAKKARA, KOCHI-682 026, EPF A/C NO.KR/3311/16, PPO NO.KR.KCH/45443. 13 K.A.DASAN, S/O.APPU, KANNAKKADA HOUSE, KOCHERI PARAMBA, UDAYAMPEROOR

P.O., ERNAKULAM-682 307, EPF A/C NO.KR/3311/17, , PPO NO.KR.KCH/22167. 14 SASIDHARAN.N.P. S/O.PARAMESWARA MENON, PULIKKAPARAMBAIL HOUSE, MADAVA TEMPLE ROAD, ALINCHUVADU, VENNALA P.O., KOCHI-682 028, EPF A/C NO.KR/KKD/279/547, PPO NO.KR.KCH/60483. 15 THOMAS.P.A. S/O.ANTHAPPAN, PARASSERY VEEDU, MALLAPALLIPURAM, THRISSUR-680 732, EPF A/C NO.KR//279/548, PPO NO.KR.KCH/48168. 16 K.S.RAVI, S/O.SREEDHARAN, KANDANCHIRAYIL, AMBALLUR P.O., KANNJIRAMATTOM, ERNAKULAM-682 315, EPF A/C NO.KR/3311/30, , PPO NO.KR.KCH/56568. 17 LAKSHMIKUTTY, KOODOTH HOUSE, E.W.S. 814, GANDHINAGAR, KOCHI-682 020, P.P.O.NO.24852. 18 KRISHNA KUTTY PANICKER.E. S/O.K, RAMA PANICKER, KUDIYIRIKKAL HOUSE, NAD P.O., NOCHIMA, ALUVA, ERNAKULAM-683 563, EPF A/C NO.KR/KKD/279/214, PPO NO.KR.KCH/22271. 19 SUDHAKARAN.P.P. S/O.P.K.PADHMANABHAN, CHATHANGATTU HOUSE, PALARIVATTOM, KOCHI-682 025, EPF A/C NO.KR/3311/51, , PPO NO.KR.KCH/57360. 20 K.P.SALIN, S/O.PADHMANABHAN, AMBADI, VYLOPPILLY LANE,

AZAD ROAD, KALOOR, COCHIN-682 017, EPF A/C NO.KR//279/47, PPO NO.40084. 21 RUGMINI.T. D/O.NARAYANA MENON.K.C., SREEVALSAM, ARTHANATTU SOUTH, NORTH FORT GATE, TRIPUNITHURA, ERNAKULAM-682 301, EPF A/C NO.KR/KKD/279/0000279/000/0000120, PPO NO.KR.KCH/00066549. 22 SUBRAMANIAN.V. ARUNDATHI, 41/7731, TRRA, THEVARKKAVU ROAD, ALLIANCE JUNCTION, TRIPUNITHURA, ERNAKULAM- 682 301, EPF A/C NO.KR/KKD/279/101, , PPO NO.KR.KCH/52970. 23 C.C.RAVI MENON. S/O.DIVAKARA MENON, CHATHANADATH HOUSE, PALARIVATTOM, KOCHI-682 025, PPO NO.KR/KCH/00038277. 24 P.D.CHANDRASEKHARAN, S/O.DAMODARAN, PANAKKIL HOUSE, VETTACKAL P.O., CHERTHALA, ALAPPUZHA-688 529, EPF A/C NO.KR/KKD/279/657,

PPO NO.KR.KCH/73635. 25 K.N.MURALEEDHARAN, S/O.K.N.NARAYANAN, KOLLAMPARAMBIL HOUSE, NORTH JANATHA ROAD, PALARIVATTOM, KOCHI-682 025, PPO NO.KR/KCH/00045221. 26 G.SWAMI, S/O.K.E.GOVINDAN, MOLATHUPARAMBIL, PADAMUGAL, KAKKANAD P.O., ERNAKULAM-682 030, EPF A/C NO.KR/KKD/279/1329, PPO NO.KR.KCH/29519. 27 V.RAJENDRAN PILLAI, S/O.K.VASU PILLAI, KARTHIKA, PARUTHIYARA, (NEAR CHOORAKAVU TEMPLE), ODANAVATTOM P.O., KOTTARAKKARA, KOLLAM-691 512, EPF A/C NO.KR/3311/57, PPO NO.KR.KCH/61908. 28 K.SANKARAN, KOROTHOLI HOUSE, SANTHI BHAVAN, ELATHUR P.O., KOZHIKODE-673 303, EPF A/C NO.KR//279/1415, , PPO NO.18093. 29 M.SASIKUMAR, S/O.K.MADHAVAN PILLAI, UTHRADOM HOUSE, KOLLAD P.O., KOTTAYAM-686 004, EPF A/C NO.KR/KKD/0014142100/0000235, PPO NO.KR/.KKD/00051034.

30 WILSONT..U.V.

S/O.VAREEN.U.V., UDHINIPARAMBAN, ELANJIPRA P.O., CHALAKKUDY, THRISSUR-680 721, EPF A/C NO.KR/KCH/00003220/000/11067, PPO NO.KR/KCH/00112708. 31 PERACHAN.K. S/O.THAMU.K., KALLUVETTUKUZHIYIL HOUSE, PILASSERI P.O., KUNNAMANGALAM, KOZHIKODE-673 571, EPF A/C NO.KR/KKD/0000279/000/0000-792, PPO NO.KR/KKD/1512000018545. 32 K.ANTONY VARKEY, S/O.K.C.VARKEY, KALIYADAN HOUSE, CHERIYAPPILLY, KAITHARAM P.O., ERNAKULAM-683 519, EPF A/C NO.KR/71/1243, PPO NO.KR/KCH/63250. 33 V.V.POULOSE, S/O.V.C.VARGHESE, VETHAMATTIL HOUSE, LITTLE TENT, LANE NO.36, JANATHA ROAD, VYTTILA, KOCHI- 682 019, EPF A/C NO.KR/KTM/0000071/000/0000999, PPO NO.KR/KCH/00069055. 34 BABU N PHILIP, S/O.N.V.PHILIP, NADUPARAMBIL, 53/2979 A, BUVANESWARI ROAD, PONNURUNNI, VYTTILA, KOCHI-682 019, EPF A/C NO.KR/KTM/71/930, PPO NO.KR/KCH/00069058. 35

N.J.SOJAN, S/O.N.J.JOHN, NALIATH, KRBBRA-72, THIRUVANKULAM P.O., ERNAKULAM-682 305, EPF A/C NO.KR/KTM/71/1027, PPO NO.KR/KCH/00060798. 36 K.J.VARGHESE, S/O.K.P.JACOB, KOORAN HOUSE, KARAYAM PARAMBU, KARUKUTTY P.O., ERNAKULAM-683 576, EPF A/C NO.KR/KTM/71/0000931, PPO NO.KR/KCH/00064329. 37 RAGHUNADAN, S/O.VASUDEVA KARTHA, CHANDRAVILASAM, CHERUVARANAM, VARANAM P.O., CHERTHALA, ALAPPUZHA-688 555, EPF A/C NO.KR/KTM/71/2290, PPO NO.KR/KCH/00050508. 38 T.S.GEORGE, S/O.K.C.SIMON, 31/10283, KURUDAMANNIL THENALIL, FRIENDS AVENUE, VYTTLA P.O., KOCHI- 682 019, EPF A/C NO.KR/KTM/71/1228, PPO NO.KR/KCH/00039292.

39 N.P.SOMASEKHARAN,

S/O.PARAMESWARAN NAIR, AISWARYA, PANDARACHIRA ROAD, KADAVANTHARA SOUTH, KADAVANTHARA P.O., KOCHI-682 020. EPF A/C NO.KR/KTM/0000071/000/0000989, PPO NO.KR/KCH/00076659. 40 ANANDAKUTTAN.M.G. S/O.GOPALAN NAIR.K.R., 53/538, ASWATHI, JUNIOR JANATHA ROAD, VYTTLA, KOCHI-682 019, EPF A/C NO.KR/KTM/71/1197, PPO NO.KR/KCH/00024404. 41 KURIAN CHANDAPILLAI, S/O.GEEVARUGHESE CHANDAPILLAI, PANACKAMUTTATHUMANAPPURATH HOUSE, KADAPRA MANNAR P.O., NIRANAM, PATHANAMTHITTA-689 621, EPF A/C NO.KR/KTM/000988 PPO NO.KR/KCH/00059420. 42 SASIDHARAN PILLAI, S/O.PARAMESWARAN PILLAI, THITTAYIL HOUSE, VADAYAMPADY P.O., PUTHENCRUZ, ERNAKULAM-682 308, EPF A/C NO.KR/KTM/71/00971, PPO NO.KR/KCH/00078-64. 43 JOHN JAMES, S/O.JAMES JOHN, PUTHENPARAMBIL HOUSE, MALLOSSERY P.O., PULLARIKUNNU, KOTTAYAM-686 041, EPF A/C NO.KR/KTM/71/001096, PPO NO.KR/KCH/00021608. 44 BABY ABRAHAM, S/O.CORAHA ABRAHAM, ALUNKAL PALLICHIRA HOUSE, CHENNAMKARA P.O., ALAPPUZHA-688 501, EPF A/C

NO.KR/KTM/71/00084991, PPO NO.KR/KCH/00084991. 45 SABU KURUVILLA, S/O.K.A.KURUVILLA, KARIMPANNOOR HOUSE, KUZHIPURAYIDOM, MAPNARCAD P.O., KOTTAYAM- 686 019, EPF A/C NO.KR/KTM/71/0814, , PPO NO.KR/KCH/00027910. 46 K.U.JOHN, S/O.K.U,ULAHANAN, KOCHI, PADICKAL, SH MOUNT P.O., KOTTAYAM-686 006, EPF A/C NO.KR/KTM/71/1103, PPO NO.KR/KCH/00027819. 47 V.C.FRANCIS, S/O.CHACKO, VATTAKUZHIL HOUSE, PALLIKKARA ROAD, MUVATTUPUZHA-686 661, PPO NO.KR/KCH/00068242.

48 K.K.BALAN,

S/O.KUMARAN, PRIYAMANDIR, MAZZID LANE, PUTHUKKALAVATTOM, KOCHI-682 026, EPF A/C NO.435/PF NO.759/99, PPO NO.KR/279/1449-PPO- 43519. 49 T.DAMODARAN, AGED 70 YEARS S/O.NAMBIATHAN NAMBOOTHIRI, THACHAOOILLY HOUSE, EDANAD, CHUVARA P.O., ERNAKULAM-682 571,EPF A/C.NO.KR/KKD/279/390, PPO NO.KR/KCH/57784. 50 MATHEW ULAHANAN, AGED 65 YEARS S/O.C.M.MATHEW, CHERIYIL HOUSE, KOLLAD P.O., KOTTAYAM-686 004, KOTTAYAM DISTRICT, EPF NO.KR/KKD/279/390, PPO NO.KR/KTM/0001945. BY ADVS. V.V.NANDAGOPAL NAMBIAR SMT.SMITHA (EZHUPUNNA) SRI.DHEERAJ KRISHNAN PEROT SMT.CHITRA JOHNSON

RESPONDENTS: 1 UNION OF INDIA

REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA, MINISTRY OF LABOUR AND EMPLOYMENT, SHRAM SAKTHI BHAVAN, RAFFI MARGH, NEW DELHI-110 001. 2 THE CENTRAL PROVIDENT FUND COMMISSIONER, EMPLOYEES PROVIDENT FUND ORGANIZATIN, BHAVISHYANIDHI BHAVAN, NEW DELHI-110 066. 3 THE ASSISTANT PROVIDENT FUND COMMISSIONER, EMPLOYEES PROVIDENT FUND ORGANIZATION, SUB REGIONAL

OFFICE, KOCHI-682 017. 4 THE ASSISTANT PROVIDENT FUND COMMISSIONER, EMPLOYEES PROVIDENT FUND ORGANIZATION, SUB REGIONAL OFFICE, KOTTAYAM-686 001. 5 THE ASSISTANT PROVIDENT FUND COMMISSIONER, EMPLOYEES PROVIDENT FUND ORGANIZATION, SUB REGIONAL OFFICE, KOZHIKODE-673 006. 6 MATHRUBHUMI PRINTING AND PUBLISHERS CO.LTD., REGISTERED OFFICE AT KOZHIKODE-673 001,

REPRESENTED BY ITS MANAGING DIRECTOR. 7 MALAYALA MANORAMA CO.LTD., HEAD OFFICE AT MANORAMA JUNCTION, KK ROAD, KOTTAYAM-686 001. 8 THE NEW INDIAN EXPRESS LTD., EXPRESS PUBLICATIONS, KOZHIKODE. 9 THE NEW INDIAN EXPRESS LTD., EXPRESS TOWERS, KALOOR, KOCHI. 10 DESHABHIMANI CHINTHA PRINTING AND PUBLISHING COMPANY, KOCHI-17. BY ADVS. SRI.T.V.VINU, CGC ABRAHAM P.MEACHINKARA JOY THATTIL ITTOOP SRI.U.K.RAMAKRISHNAN (SR.) SRI.MILLU DANDAPANI SRI.P.BENNY THOMAS SRI.P.P.THAJUDEEN SRI.D.PREM KAMATH SRI.PRINSUN PHILIP SMT.C.SEENA SHRI.ABEL TOM BENNY SMT.J.SURYA SHRI.JYOTHISH KRISHNA SMT.MEENAKSHY S DEV SHRI.AHAMMAD SACHIN K. V KRISHNA MENON

BY DR.ABRAHAM P.MEACHINKARA - SC BY ADV. SRI.S.MANU- DSGI THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22.08.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

This writ petition is filed seeking the following reliefs:-

a) a writ of mandamus or any other appropriate writ or order directing respondents 2 to 5 to recalculate and re-fix the pension payable the petitioners by determining pensionable salary taking into account average monthly pay drawn during the contributory period of service in the span

of 12 months preceding the date of exit from the employees pension fund and by taking into account 8 1/3% of the full contribution made in relation to the petitioners by the 6th to 10th respondent establishments without imposing any artificial wage ceiling.

b) a writ of mandamus or any other appropriate writ or order directing the respondents 2 to 5 to pay forthwith the arrears of pension and the revised pension payable to the petitioners after re-fixation of the pension payable to petitioners, reckoning pensionable salary in terms of pre-amended paragraph 11 of the pension scheme taking into account 8 1/3% of the full contribution made in relation to the petitioners by the 6 th to 10th respondent establishments.

c) to hold that the petitioners are entitled to the benefits conferred Ext P2 judgment and d) issue such other writ, order or direction as are deemed just and proper on the facts and circumstances of the case.

2. The petitioners are retired employees of

respondents 6 to 10 establishments. They are subscribers of Employees Provident Fund. According to the petitioners, they are entitled for higher pension under the Employees Provident Funds and Miscellaneous Provisions Act, 1952 as per the option exercised by them. It is their case that the pension has to be paid without limiting the amount to the maximum pensionable salary prescribed in paragraph 11(3) of the Employees Pension Scheme, 1995.

3. Dr.Abraham P.Meachinkara, the learned

Standing Counsel for the Employees Provident Fund Organisation submits that the question raised in the writ petition is now settled by the Honble Supreme Court in EPF Organisation and Another v. Sunil Kumar B and Others [2022 SCC online SC 1521] and that the grievance of the petitioners raised in this writ petition will be considered in accordance with the directions therein. In the light of the said submission, this writ petition is disposed of directing the competent among the respondents to re-consider the claims put forward by the petitioners in the light of

the dictum laid down by the Honble Supreme Court in the decision cited above within a period of three months from the date of receipt of a copy of this

judgment.

Sd/- MURALI PURUSHOTHAMAN JUDGE AL/- APPENDIX OF WP(C) 15162/2020 PETITIONER EXHIBITS EXHIBIT P1 A TRUE COPY OF THE AMENDMENT AS PER GSR NO.609(E) DATD 22.08.2014. EXHIBIT P2 TRUE COPY OF THE JUDGMENT DATED 12.10.2018 IN WPC NO.13120/2015 REPORTED IN ILR 2019 (1) KERALA 614.

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