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Ruby George and Others Vs. The Dist.Executive officer, Kmtwwf Board

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Court : Kerala

Decided On : Feb-02-2015

Judge : Honourable Mr.Justice Antony Dominic

Appellant : Ruby George and Others

Respondent : The Dist.Executive officer, Kmtwwf Board

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN MONDAY,THE2D DAY OF FEBRUARY201513TH MAGHA, 1936 WP(C).No. 3065 of 2010 (G) ---------- PETITIONER(S): ---------- 1. RUBY GEORGE, PUTHIYAMADTHIL, KOLENCHERI, REGD. OWNER OF CONTRACT CARRIAGE NO.KL-18/A230 KL-17/A-4104.

2. DENNY MARKOSE, VANDANATHIL, KOLENCHERRY, REGD. OWNER OF CONTRACT CARRIAGE NO.KL-7/12090.

3. THANKACHAN, MUNDAYIL, KOLENCHERRY, REGD. OWNER OF CONTRACT CARRIAGE NO., KRF-2583.

4. ITTOOP,MYKULANGARA, KINGINIMATTOM, REGD.OWNER OF CONTRACT CARRIAGE NO., KL-7/143526, KL17B310 AND KL7/G4499 5. BENNY, NEDUMTHURUTHIL, KADAMATTOM, REGD.OWNER OF CONTRACT CARRIAGE NO.KL-4/A-3737.

6. PAULOSE, KUNNEL, KARUKAPPALLY, REGISTERED OWNER OF CONTRACT CARRIAGE NO. KL-7/23402, KL17/C4217 AND KL17/6104.

7. MATHAI, ATHIKKAKUZHY, KOLENCHERRY, REGD. OWNER OF CONTRACT CARRIAGE NO.KL-7/B-3233.

8. THOMAS, MYKULANGARA, KINGINIMATTOM, REGD. OWNER OF CONTRACT CARRIAGE NO.KL-17/B-3271.

9. PAUL V.ALIAS, VAZHAKKALAYIL, KOLLENCHERRY, REGD. OWNER OF CONTRACT CARRIAGE NO., KL-7/4687.

10. KRISHNAKUMAR, PUNATHIL, VADAYAMBADY, REGD.OWNER OF CONTRACT CARRIAGE NO. KL-40/4589. Msv/ -2- -2- WP(C).No. 3065 of 2010 (G) ---------- 11. POULOSE, KANNAPPALLIKUZHY, KOLENCHERRY, REGD. OWNER OF CONTRACT CARRIAGE NO. KL-5/T.

4124. 12. THANKACHAN, MUNDAYIL, KOLENCHERRY, REGD. OWNER OF CONTRACT CARRIAGE NO. KL-7/G4120 13. SAJU PAUL, MADAPARAMBIL, KOLENCHERRY, REGD. OWNER OF CONTRACT CARRIAGE NO. KL-17/A5199AND KL3/7790, KL5/E3274 14. NINAN C.MATHEW, SANKARATHIL, KOLENCHERRY, REGD. OWNER OF CONTRACT CARRIAGE NO. KL-1/6329.

15. K.C.DANIAL, KOLENCHERRY, REGD. OWNER OF CONTRACT CARRIAGE NO., KL-7/P-7473.

16. KURIAKOSE, THOONICKAL, KOLENCHERRY, REGD. OWNER OF CONTRACT CARRIAGE NO. KL/40/145 AND KL407125, KL40/A8326 KL40/A9286KL40A/4392, AND KL40B/4740.

17. MATHAI, KARAMOLEL, KOLENCHERRY, REGD. OWNER OF CONTRACT CARRIAGE NO. KL-7/C8553 18. RAJU, NJATHUDHOTTI, KOLENCHERRY, REGD. OWNER OF CONTRACT CARRIAGE NO., KL-40/A8542 19. VALSA, HIGH-TECH HOLLOW BRICKS, KOLENCHERRY, REGD. OWNER OF CONTRACT CARRIAGE NO. KL-7/L9655 20. ANNIE CHERIAN, POOVELIL, KOLENCHERRY, REGD. OWNER OF CONTRACT CARRIAGE NO., KL-

17/B9146 21. PATHROSE JOY,PULIMOOTTIIL, KOLENCHERRY, REGD. OWNER OF CONTRACT CARRIAGE NO. KL-9/A9585 22. BIJU, VADAKKAKUNNAKATH, PRAYAN, REGD. OWNER OF CONTRACT CARRIAGE NO., KL-29/2602.

23. VARGHESE, KANJIRAVELIL, PAZHAMTHOTTAM, REGD. OWNER OF CONTRACT CARRIAGE NO. KL-17/A3737 KL8J/8350, KL40/6010 AND KL40C/1161. Msv/ -3- -3- WP(C).No. 3065 of 2010 (G) ---------- 24. BINU, KUNNELKKUTTU, PIRAVOM, REGD. OWNER OF CONTRACT CARRIAGE NO., KL-17/D4127 25. BOBY KURIAKOSE, KOOLIYATH, EZHAKKARANAD, REGD. OWNER OF CONTRACT CARRIAGE NO. KL-17/F4035 26. KURIAKOSE, NAREKKATH, PIRAVOM, REGD. OWNER OF CONTRACT CARRIAGE NO. KL-7/F4363 27. JACOB,PUTHUPPADI, KOLENCHERRY, REGD. OWNER OF CONTRACT CARRIAGE NO., KL-7/A7310 28. KURIAKOSE, POTTACKAL, PANICODE, REGD. OWNER OF CONTRACT CARRIAGE NO. KL-40/8888. BY ADVS.SRI.SAJEEV KUMAR K.GOPAL SMT.AMBIKA RADHAKRISHNAN RESPONDENT(S): ---------- 1. THE DISTRICT EXECUTIVE OFFICER, KERALA MOTOR TRANSPORT WELFARE FUND BOARD, ERNAKULAM.

2. THE TRANSPORT OFFICER, TRANSPORT OFFICE, PERUMBAVOOR. R1 BY ADV. SRI.P.RAMAKRISHNAN, SC,KMTWF BOARD R2 BY GOVERNMENT PLEADER SRI.T.J.MICHAEL THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON0202-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: msv/ WP(C).No. 3065 of 2010 (G) ---------- APPENDIX PETITIONER(S)' EXHIBITS: ---------- EXT.P1: TRUE COPY OF THE RECEIPT ISSUED BY THE1T RESPONDENT TO13H PETITIONER. EXT.P2: TRUE COPY OF THE RECEIPT ISSUED BY THE1T RESPONDENT TO17H PETITIONER. RESPONDENT(S)' EXHIBITS: ---------- NIL //TRUE COPY// P.S.TO JUDGE Msv/ K.VINOD CHANDRAN, J - W.P.(C).No. 3065 of 2010 - - - - - - - - - - - - - - - Dated 2nd February, 2015 -

JUDGMENT

The petitioners, who claim to be the individual owners of contract carriages, seek acceptance of employer's contribution alone, on the ground that they would not have the responsibility of remitting the employees contribution.

2. The Kerala Motor Transport Workers Welfare fund Act, 1985 (for short 'the Act') is a Welfare Legislation brought in to create a fund for payment of benefits to the employees engaged in a motor transport vehicle at the time of retirement and for other benefits to such employees and their family members.

3. The petitioners' contention is two fold in insisting for payment of the employer's WP(C).3065/10 2 contribution alone; one, that some of them are operating their own vehicles and the other contention is that, they have no obligation to deduct the salary of the employees and pay the contribution to the fund. They undertake to satisfy the employer's contribution.

4. With respect to the contention regarding self employed persons, it is to be noticed that by introduction of clause (j)(a) to Section 2 of the Act, a specific definition of 'self employed persons' was brought into the Act. By paragraph 28 of the Scheme, the contributions were made mandatory even for such self employed persons. They would also get the benefits which enure to the employees under the Welfare Legislation. Hence, on the ground of self employment, no employer can insist that they would pay only the employer's contribution. WP(C).3065/10 3 5. With respect to the other contention, it is to be noticed that the Welfare Fund Act is enacted to protect the employees in the un- organized sector, being those persons engaged in motor vehicles owned by individuals, Firms or other legal entities. In such circumstances, the contribution payable by the employee is to be deducted from the salary and paid to the Welfare Fund Board. There can be no arbitrariness or illegality in such prescription since no liability as such is mulcted on the employer; but for the deduction of that contribution from the employee's salary. There is not rationale in the plea of the petitioners that they are obliged to satisfy only the employer's contribution. The employee's contribution directed to be paid by the employer is after deducting such amount from the wages of the employee. WP(C).3065/10 4 6. For all the above reasons, the writ petition is found to be devoid of merit. Since there was a stay operating in the writ petition from 2010

onwards, petitioners shall approach the authority within a period of three weeks from the date of receipt of a copy of this judgment, and the authority shall compute the dues and issue them a statement of accounts. Petitioners shall be permitted to avail six instalments to satisfy the same. If any of the petitioners do not approach the authority, the respondents shall be entitled to proceed against such persons for recovery. With the above observation, the writ petition is dismissed. Parties are left to suffer their respective costs. Sd/- K.VINOD CHANDRAN Judge Mrcs //True Copy//

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