

M.Muralikrishnan Vs. Union of India

M.Muralikrishnan Vs. Union of India

SooperKanoon Citation : sooperkanoon.com/50607

Court : Kerala

Decided On : Apr-08-2015

Judge : Honourable Mr.Justice K.Vinod Chandran

Appellant : M.Muralikrishnan

Respondent : Union of India

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN WEDNESDAY,THE8H DAY OF APRIL201518TH CHAITHRA, 1937 WP(C).No. 11676 of 2015 (H)

----- PETITIONER(S): ----- 1.
M.MURALIKRISHNAN AGED52YEARS JUNIOR ENGINEER
INSTRUMENTATION LIMITED PALAKKAD678623 RJ113905793
KR/KKD/0014754/000/0000317 2. C.VENUGOPALAN, FITTER
INSTRUMENTATION LIMITED PALAKKAD678623 RJ113905669
KR/KKD/0014754/000/0000345 KR/KKD/00051741 3. C.R.KANNADASAN,
JUNIOR ENGINEER INSTRUMENTATION LIMITED PALAKKAD678623
RJ11395155 KR/KKD/0014754/000/0000242.

4. K.BALAN FITTER INSTRUMENTATION LIMITED PALAKKAD678623
RJ11395668 KR/KKD/0014754/000/0000347 KR/KKD/00053322.

5. K.DEVADAS, SENIOR FOREMAN INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905622 KR/KKD/0014754/000/0000343 PPO.
KR/KKD/00055162.

6. M.BALACHANDRAN, FOREMAN INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113906249 KR/KKD/0014754/000/0000377. WP(C).No.
11676 of 2015 (H) ::2::

7. K.MANI, SEMISKILLED WORKER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113909027 KR/KKD/0014754/000/0000546.

8. T.V.ANDROOS, WATCHMAN INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113911486 KR/KKD/0014754/000/0000570.

9. P.NARAYANANKUTTY, SEMISKILLED WORKER INSTRUMENTATION
LIMITED PALAKKAD678623 RJ1139 09031 KR/KKD/0014754/000/0000550.

10. T.MOHANAN, SEMISKILLED WORKER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113909033 KR/KKD/0014754/000/0000552.

11. E.SUMATHY, STORE KEEPER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113910278 KR/KKD/0014754/000/0000410.

12. K.UNNIKRISHNAN, JUNIOR ENGINEER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905159 KR/KKD/0014754/000/0000246.

13. T.N.RAMANKUTTY, JUNIOR ENGINEER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905403 KR/KKD/0014754/000/0000295

14. K.KRISHNAKUMAR JUNIOR ENGINEER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905156 KR/KKD/0014754/000/0000243.

15. M.A.THOMAS JUNIOR ENGINEER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905432 KR/KKD/0014754/000/0000299.

16. K.PRADEEP, ENGINEER HAND INSTRUMENTATION LIMITED
PALAKKAD678623 PF.NO.RJ1139/06999 KR/KKD/0014754/000/0000433.
WP(C).No. 11676 of 2015 (H) ::3::

17. MUHSIN M.K.P ENGINEER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113913908 KR/KKD/0014754/000/0000713.
18. RUGMINI P.V., CLERK INSTRUMENTATION LIMITED PALAKKAD678623
RJ113913364 KR/KKD/0014754/000/0000671.
19. K.PUSHPARAJ, JUNIOR ENGINEER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905362 KR/KKD/0014754/000/0000277.
20. R.ASOK KUMAR, JUNIOR ENGINEER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113904492 KR/KKD/0014754/000/0000202.
21. A.BHAKTHAVALSALAN, LEADING HEND INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113906989 KR/KKD/0014754/000/0000422.
22. O.PEETHAMBARAN, FOREMAN, INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113906989 KR/KKD/0014754/000/0000422.
23. P.KRISHNADAS, FOREMAN, INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113906148 KR/KKD/0014754/000/0000344.
24. K.UNNIKRISHNAN, LEADING HAND INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113907158 KR/KKD/0014754/000/0000414.
25. M.P.RAMANUNNI, LEADING HAND INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113907158 KR/KKD/0014754/000/0000416.
26. N.SURESH, FOREMAN INSTRUMENTATION LIMITED PALAKKAD678623
RJ113905635 KR/KKD/0014754/000/0000396.
27. M.J.JAMES, LEADING HAND INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905637 KR/KKD/0014754/000/0000418. WP(C).No.
11676 of 2015 (H) ::4::
28. JAYASANKAR P.V., FOREMAN INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905631 KR/KKD/0014754/000/0000380.

29. RAMADAS K.K. MACHINIST, INSTRUMENTATION LIMITED, PALAKKAD678623 RJ113908617 KR/KKD/0014754/000/0000444.
30. SOMAKUMARAN P.V., JUNIOR ENGINEER INSTRUMENTATION LIMITED PALAKKAD678623 RJ113905153 KR/KKD/0014754/000/0000240 31. P.A.BALAKRISHNAN, SENIOR FOREMAN INSTRUMENTATION LIMITED PALAKKAD678623 RJ113906236 KR/KKD/0014754/000/0000353.
32. P.SATHYANARAYANAN, UNSKILLED WORKER INSTRUMENTATION LIMITED PALAKKAD678623 RJ113909274 KR/KKD/0014754/000/0000157.
33. K.MOHANDAS, DEFTARI INSTRUMENTATION LIMITED PALAKKAD678623 RJ113903737 KR/KKD/0014754/000/0000157.
34. SUNDARAN.E, WATCHMAN INSTRUMENTATION LIMITED PALAKKAD678623 RJ113911420 KR/KKD/0014754/000/0000510.
35. C.RAVIDAS, FOREMAN INSTRUMENTATION LIMITED PALAKKAD678623 RJ113906248 KR/KKD/00053323.
36. A.RAMAHANDRAN, LEADING HAND INSTRUMENTATION LIMITED PALAKKAD678623 RJ113906970 KR/KKD/0014754/000/0000413.
37. K.NARAYANANKUTTY, LEADING HAND INSTRUMENTATION LIMITED PALAKKAD678623 RJ113906981 KR/KKD/0014754/000/0000425 WP(C).No. 11676 of 2015 (H) ::5::
38. K.P.SIVANANDAN, LEAND HAND INSTRUMENTATION LIMITED PALAKKAD678623 RJ1139014754 KR/KKD/0014754/000/0000412 39. T.KOMALAVALLY, DEFTARI INSTRUMENTATION LIMITED PALAKKAD678623 RJ113906553 KR/KKD/0014754/000/0000394 KR/KKD/00055163.
40. PAUL P.S., FOREMAN INSTRUMENTATION LIMITED PALAKKAD678623 RJ113905629 KR/KKD/0014754/000/0000384.
41. V.ACHUTHANKUTTY, FITTER INSTRUMENTATION LIMITED PALAKKAD678623 RJ113909024 KR/KKD/0014754/000/0000484.

42. V.KRISHNADAS, MACHINIST INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905654 KR/KKD/0014754/000/0000480.
43. K.MOHANADASAN, MACHINIST INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905643 KR/KKD/0014754/000/0000478.
44. K.RAJAN, UNSKILLED WORKER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113909275 KR/KKD/0014754/000/0000530.
45. R.BHASKARAN, SR.OFFICE ASSISTANT INSTRUMENTATION LIMITED
PALAKKAD678KR/KKD/0014754/000/0000152 KR/KKD/00051562.
46. K.SIVGOPALAN, LEADING HAND INSTRUMENTATION LIMITED
PALAKKAD678623 KR/KKD/0014754/000/0000155 PPO KR/KKD/00050592.
47. S.V.ASOKAN, SENIOR FOREMAN INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905642 KR/KKD/0014754/000/0000 338. WP(C).No.
11676 of 2015 (H) ::6::
48. M.SIVADASAN, MACHINIST, INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113908619 KR/KKD/0014754/000/0000446.
49. C.M.APPU, SENIOR FOREMAN INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905653 KR/KKD/0014754/000/0000335.
50. V.ASOKAKUMARAN, FOREMAN INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905677 KR/KKD/0014754/000/0000403
KR/KKD/0051564.
51. K.KANAKARANAN, LEADING HAND INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905646 KR/KKD/0014754/000/0000426.
52. PREMRAJ A.K. MACHINIST INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113908625 KR/KKD/0014754/000/0000488.
53. R.KALADHARAN, MACHINIST INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113906967 KR/KKD/0014754/000/0000479.

54. M.MURALIDHARAN, MACHINIST INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113908984 KR/KKD/0014754/000/0000451.
55. GOVINDAN N.P. SENIOR FOREMAN INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113908984 KR/KKD/0014754/000/0000349.
56. ABDUL LATHEEF P.A. SENIOR FOREMAN INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905625 KR/KKD/0014754/000/0000281.
57. I.K.PRAVEENKUMAR, LEADING HAND INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113906975 KR/KKD/0014754/000/0000417. WP(C).No.
11676 of 2015 (H) ::7::
58. M.GOPINATHAN, JUNIOR ENGINEER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905801 KR/KKD/0014754/000/0000323.
59. R.KALAISELVI, LEADING HAND INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113903252 KR/KKD/0014754/000/0000187.
60. MANICKAM K., SEMISKILLED WORKER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113903251 KR/KKD/0014754/000/0000188.
61. P.R.MADAN MOHAN, LEADING HAND INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113906974 KR/KKD/0014754/000/0000423.
62. M.K.DAS, SR.OFFICE ASSISTANT INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905379 KR/KKD/0014754/000/0000 294.
63. P.SIVASANKARAN, JR.OFFICE ASSISTANT INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113908945 KR/KKD/0014754/000/0000485.
64. SASIKUMAR.K., JR.OFFICE ASSISTANT INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113909025 KR/KKD/0014754/000/0000499.
65. C.PRABHAKARAN, UNSKILLED WORKER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113909265 KR/KKD/0014754/000/0000520.

66. C.NARAYANAN, UNSKILLED WORKER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113909265 KR/KKD/0014754/000/0000482.
67. K.K.MADHAVANKUTTY, JR.OFFICE ASSISTANT INSTRUMENTATION
LIMITED PALAKKAD678623 RJ113905664 KR/KKD/0014754/000/0000482
68. P.M.MANIYAN, FOREMAN INSTRUMENTATION LIMITED PALAKKAD678623
RJ113906272 KR/KKD/0014754/000/0000395. WP(C).No. 11676 of 2015 (H) ::8::
69. V.RAJEEV, FOREMAN INSTRUMENTATION LIMITED PALAKKAD678623
RJ113905623 KR/KKD/0014754/000/0000401.
70. K.B.SUGATHAN, FOREMAN, INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905234 KR/KKD/0014754/000/0000256.
71. C.KAMALAPATHY, FOREMAN INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113902666 KR/KKD/0014754/000/0000108
KR/KKKD/000052317.
72. K.BALACHANDRAN, SR.FOREMAN INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113906170 KR/KKD/0014754/000/0000330
KR/KKD/000508348.
73. A.K.RAVIKUMAR SR.FOREMAN INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905616 KR/KKD/0014754/000/0000330
KR/KKD/0050855.
74. A.K.RAVIKUMAR UNSKILLED WORKER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905615 KR/KKD/0014754/000/00005336.
75. M.RADHAKRISHNAN, UNSKILLED WORKER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113909286 KR/KKD/0014754/000/0000541.
76. M.P.MURUDAS DRAUGHTSMAN INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113909063 KR/KKD/0014754/000/0000491.
77. SAJEEV .S DRAUGHTSMAN INSTRUMENTATION LIMITED
PALAKKAD678623 RJ1139006971 KR/KKD/0014754/000/0000483.

78. SAROJINI.C DEFTARI INSTRUMENTATION LIMITED PALAKKAD678623 RJ113906255 KR/KKD/0014754/000/0000376 KR/KKD/0081740. WP(C).No. 11676 of 2015 (H) ::9::

79. SARASWATHY T. UNSKILLED WORKER INSTRUMENTATION LIMITED PALAKKAD678623 RJ113913365 KR/KKD/0014754/000/0000672.

80. J.K.NARAYANAN, JR.OFFICER INSTRUMENTATION LIMITED PALAKKAD678623 RJ KR/KKD/0014754/000/0000303 PPO NO.KR/KKD /0051739.

81. V.RAMAN, FOREMAN INSTRUMENTATION LIMITED PALAKKAD678623 RJ113905626 KR/KKD/0014754/000/0000389.

82. K.SIVADAS UNSKILLED WORKER INSTRUMENTATION LIMITED PALAKKAD678623 RJ113909260 KR/KKD/0014754/000/0000516..

83. V.RAMESHA, LEADING HAND INSTRUMENTATION LIMITED PALAKKAD678623 RJ113906550 KR/KKD/0014754/000/0000356.

84. MANI M.K., LEADING HAND INSTRUMENTATION LIMITED PALAKKAD678623 RJ11390561 KR/KKD/0014754/000/0000435.

85. SURESH V. MACHINIST INSTRUMENTATION LIMITED PALAKKAD678623 RJ113909835 KR/KKD/0014754/000/0000453.

86. RANJITH MOHAN M MACHINIST INSTRUMENTATION LIMITED PALAKKAD678623 RJ113910369 KR/KKD/0014754/000/0000463.

87. M.MURALIDHARAN, WATCHMAN INSTRUMENTATION LIMITED PALAKKAD678623 RJ113911485 KR/KKD/0014754/000/0000569.

88. A.GURUVAYURAPPAN, UNSKILLED WORKER INSTRUMENTATION LIMITED PALAKKAD678623 RJ113909259 KR/KKD/0014754/000/0000515.

89. M.MURUGANATHAN, FOREMAN INSTRUMENTATION LIMITED PALAKKAD678623 RJ113906050 KR/KKD/0014754/000/0000331. WP(C).No.

90. R.GOKULDAS, LEADING HAND INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113906966 KR/KKD/0014754/000/0000419.

91. K.KRISHNAKUMAR, JR.OFFICE ASSISTANT INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113907241 KR/KKD/0014754/000/0000441.

92. N.SUDARSANAN, LEADING HAND INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113906799 KR/KKD/0014754/000/0000374.

93. C.KALADHARAN, INSPECTOR INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113907004 KR/KKD/0014754/000/0000494.

94. S.PRADEEPKUMAR INSTRUMENTATION LIMITED PALAKKAD678623
RJ113910958 KR/KKD/0014754/000/0000471.

95. BIJU CYRIAC INSTRUMENTATION LIMITED PALAKKAD678623
RJ113910957 KR/KKD/0014754/000/0000473.

96. P.MANIKANDAN, JR.ENGINEER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905239 KR/KKD/0014754/000/0000261.

97. K.VELAYUDHAN, UNSKILLED WORKER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113909267 KR/KKD/0014754/000/0000522
KR/KKD/0005296.

98. R.KARUPPUKWAMY, UNSKILLED WORKER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113909617 KR/KKD/0014754/000/0000544.

99. V.P.VASU UNSKILLED WORKER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113909266 KR/KKD/0014754/000/0000521.

100. C.SELVARAJ, UNSKILLED WORKER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113909262 KR/KKD/0014754/000/0000518. WP(C).No.

101. V.RADHAKRISHNAN, UNSKILLED WORKER INSTRUMENTATION LIMITED PALAKKAD678623 RJ113909258 KR/KKD/0014754/000/0000514.
102. B.SUNDARAN, UNSKILLED WORKER INSTRUMENTATION LIMITED PALAKKAD678623 RJ113909282 KR/KKD/0014754/000/0000537.
103. K.T.CHANDRAN, UNSKILLED WORKER INSTRUMENTATION LIMITED PALAKKAD678623 RJ113909277 KR/KKD/0014754/000/0000532.
104. C.CHAMUNNI, UNSKILLED WORKER INSTRUMENTATION LIMITED PALAKKAD678623 RJ113909287 KR/KKD/0014754/000/0000542.
105. SASI.P LEADING HAND INSTRUMENTATION LIMITED PALAKKAD678623 RJ113907861 KR/KKD/0014754/000/0000432.
106. ALIAS THOMAS FITTER INSTRUMENTATION LIMITED PALAKKAD678623 RJ113910972 KR/KKD/0014754/000/0000456.
107. P.VIJAYAN, UNSKILLED WORKER INSTRUMENTATION LIMITED PALAKKAD678623 RJ113909269 KR/KKD/0014754/000/0000524.
108. M.S.SWAMINATHAN, UNSKILLED WORKER INSTRUMENTATION LIMITED PALAKKAD678623 RJ113909270 KR/KKD/0014754/000/0000525.
109. SURESH.K. FITTER INSTRUMENTATION LIMITED PALAKKAD678623 RJ113910691 KR/KKD/0014754/000/0000470 110. SABU.K FITTER INSTRUMENTATION LIMITED PALAKKAD678623 RJ113910956 KR/KKD/0014754/000/0000472. WP(C).No. 11676 of 2015 (H) ::12::
111. R.UMASANKAR, FITTER INSTRUMENTATION LIMITED PALAKKAD678623 RJ113909918 KR/KKD/0014754/000/0000469.
112. R.SEBASTIAN, SR.FOREMAN INSTRUMENTATION LIMITED PALAKKAD678623 RJ113905658 KR/KKD/0014754/000/0000397 113. V.SHANMUGHAN, DRIVER INSTRUMENTATION LIMITED PALAKKAD678623 RJ113905666 KR/KKD/0014754/000/0000408.

114. PERUMAL R UNSKILLED WORKER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113909284 KR/KKD/0014754/000/0000539.

115. N.SUKUMARN, FOREMAN, INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905638 KR/KKD/0014754/000/0000388 116.
K.SURESHKUMAR, LEADING HAND INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905657 KR/KKD/0014754/000/0000427 117.
O.SUNILKUMAR, MACHINIST INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113909837 KR/KKD/0014754/000/0000459.

118. ARUCHAMI C. UNSKILLED WORKER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113909238 KR/KKD/0014754/000/0000538.

119. P.M.SIVADAS JR.ENGINEER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113905562 KR/KKD/0014754/000/0000308 120. VINOD
P.JOSE, WELDER INSTRUMENTATION LIMITED PALAKKAD678623
RJ113911029 KR/KKD/0014754/000/0000474. WP(C).No. 11676 of 2015 (H)
::13::

121. MANOJ KUMAR V.V. WELDER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113913363 KR/KKD/0014754/000/0000670 122.
MANIKANDAN.M, UNSKILLED WORKER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113909257 KR/KKD/0014754/000/0000513.

123. G.RAVIKUMAR, PEON INSTRUMENTATION LIMITED PALAKKAD678623
RJ113905763 KR/KKD/0014754/000/0000705.

124. RAGHURAMAN.K., COMPOUNDER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ113913366 KR/KKD/0014754/000/0000674.

125. N.RAJENDRA, SR.MANAGER INSTRUMENTATION LIMITED
PALAKKAD678623 RJ11396606 KR/KKD/0014754/000/0000704. BY
ADVS.SMT.A.K.PREETHA SRI.C.ANIL KUMAR RESPONDENT(S):
----- 1. UNION OF INDIA REPRESENTED BY THE SECRETARY
MINISTRY OF LABOUR AND EMPLOYMENT GOVERNMENT OF INDIA,
SHRAM SAKTHI BHAVAN, RAFI MARGH NEW DELHI - 110 001.

2. REGIONAL PROVIDENT FUND COMMISSIONER EMPLOYEES PROVIDENT FUND ORGANIZATION SUB REGIONAL OFFICE, BHAVISHYANIDHI BHAVAN NADAKKAVU-MINI BYPASS ROAD, PASSPORT OFFICE ERANJIPPALAM, KOZHIKODE - 673 006.

3. M/S.INSTRUMENTATION LTD, KANJIKODE WEST, PALAKKAD - 678 623 REPRESENTED BY ITS MANAGING DIRECTOR. R2 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SC, P.F. R1 BY ADV. SMT.H.SUBHALEKSHMI, CGC R BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON0804-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 11676 of 2015 (H) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- P1: TRUE COPY OF THE

JUDGMENT

DATED111/2011IN WPC66432007 P2: TRUE COPY OF THE

JUDGMENT

DATED53/2013 IN W.A. 1137/2012. P3: TRUE COPY OF THE

JUDGMENT

DATED43/2014 IN WPC20592014. RESPONDENT(S)' EXHIBITS: NIL ----- TRUE COPY P.A TO JUDGE jma K.VINOD CHANDRAN, J.

----- W.P.(C).No.11676 of 2015-H ----- Dated this the 08th day of April, 2015

JUDGMENT

I have heard the learned counsel appearing for the petitioners, Smt. H Subhalekshmi for Union of India and the learned Standing Counsel appearing for the Provident Fund Organisation.

2. All the petitioners except petitioners 2,4, 5, 32, 35, 39, 45, 46, 50, 71, 73, 78, 80, 97 and 103 are employees of the 3rd respondent and petitioners 2,4, 5, 32, 35,

39, 45, 46, 50, 71, 73, 78, 80, 97 and 103 are retired from the 3rd respondent. Admittedly, the petitioners are covered under the Employees Provident Funds and Miscellaneous Provisions Act, 1952 and the Employees Pension Scheme, 1995. The petitioners had salary above Rs.6500/-, and are stated to have exercised an option under Section 26(6) of the Act. However, the Provident Fund Organization disputes the exercise of joint option by the employer and the employee; and asserts that it has W.P.(C).No.11676 of 2015-H ::2:: not been done.

3. Be that as it may, it is admitted that the contribution to the Provident Fund being 12% of the total salary deducted as employees contribution and the 12% paid by the employer, were remitted to the Organization. As per the provisions of the Pension Scheme 8.33% of the contribution from the employer, is to be deducted and credited to the Pension Fund. However, in making such deduction, the Provident Fund Organization limited it to 8.33% of the maximum salary provided, ie., Rs.6500/-. The balance contribution made by the employer for the salary in excess of Rs.6,500/-, was fully retained in the Provident Fund Account itself.

4. The petitioners contend that such a retention was made by the Organization without reference to the statute. The cut- off date prescribed being 01.12.2004 is also against the statutory provisions and does not have any nexus with the object sought to be achieved, is the argument. This Court has by judgment in W.P.(C) Nos. 6643 & 9929 of 2007, dated 04.11.2011, held that the cut-off date W.P.(C).No.11676 of 2015-H ::3:: prescribed is without jurisdiction and that the Organization could not have retained the 8.33% of the employer's contribution, proportionate to the salary in excess of Rs.6,500/- in the Provident Fund Account and that it ought to have been credited to the Pension Scheme. The aforesaid judgment, of a learned Single Judge was also confirmed in appeal. The amounts, being 8.33% contribution in excess of the earlier prescribed limit of Rs. 6,500/- in any event, have been retained with the Provident Fund Organization and what would be required to comply, with the judgments of this Court, is only book adjustments.

5. Following the binding precedents, it is directed that the 8.33% of the employer's contribution, proportionate to the salary of the employees, in excess of Rs.6,500/-,

shall now be credited to the Pension Scheme and orders passed in accordance with law. Needless to say the interest accrued in the Provident Fund Account to that extent also will stand transferred to the Pension Account.

6. With respect to retired employees, who have drawn their retirement benefits by way of Provident Fund proportionate amounts W.P.(C).No.11676 of 2015-H ::4:: along with interest accrued in the account as also that accrued after the withdrawal of the Provident Fund amounts, have to be refunded to the Provident Fund Organization. The extant employees shall also submit joint applications, along with their employer wherever the same has not been done. The directions above noted shall be complied within three months from the date of receipt of a certified copy of this judgment.

7. It is also stated that the judgment passed in the same lines in other writ petitions were confirmed by a Division Bench in W.A No. 1442 of 2014. But, however, leaving the question open to be considered depending upon the result of the petitions filed before the Hon'ble Supreme Court. That reservation shall be there in the present writ petition also. Writ petition allowed. Sd/- (K. VINOD CHANDRAN, JUDGE) jma //true copy// P.A to Judge

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