

(2023) 07 KL CK 0131

In the High Court Of Kerala

Case No : Writ Petition (C) No.15787of 2020

Krishnadasan M. P.Vs Union Of India

Date of Decision : 20-07-2023

Acts Referred:

Citation : (2023) 07 KL CK 0131

Hon'ble Judges : C.S.Dias, J

Bench : Single Bench

Advocate : Asok M.Churian, N.Satheesh, K.Janardhana Shenoy, P.Vijayakumar, Dr.Abraham P.Meachinkara

Final Decision : Disposed Of

Judgement

C.S.Dias, J

1. The writ petition is filed, inter alia, to direct the respondents 2 to 4 to revise the monthly pension of the petitioners under the Employees' Pension Scheme, 1995, reckoning their actual salary (Basic+DA) as their pensionable salary and by accepting their option under the proviso to paragraph 11(3) of the Pension Scheme.

2. The petitioners' case is that, they are eligible for pension under the Employees' Pension Scheme, 1995 (in short 'Scheme') framed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, when they attained the age of 58 years, while working under the fifth respondent company. The petitioners assert that they are the subscribers of the Employees' Provident Fund and Employees' Pension Fund. Although they had made contributions to the provident fund, reckoning their actual salary above the ceiling limit prescribed under the Scheme, remittance to the Pension Fund from the contribution collected was made on the basis of the limit prescribed in paragraph 11 (3) of the Scheme, ignoring the proviso to the said paragraph, which was brought in by an amendment to the Scheme in the year 1996. The petitioners have exercised their option to have the enhanced pension, reckoning their actual salary as pensionable salary. The petitioners are ready and willing to pay the excess

contribution to the Pension Fund with interest. Yet, the respondents 2 to 4 are refusing to accept the option and pay them the pension. By Exts.P1 and P2 judgments, this Court has in identical matters directed that the petitioners in those writ petitions were entitled to remit to the Pension Fund, reckoning their actual salary drawn by them exceeding the ceiling limit. The petitioners are entitled to the benefit of the said judgments. Hence, the writ petition.

3. Heard; Sri.N.Satheesh, the learned counsel appearing for the petitioners and Sri.Abraham.P.Meachinkara, the learned Standing Counsel appearing for the respondents 2 to 4.

4. Sri. Abraham P.Meachinkara submitted that the question raised in the writ petition is now settled by the Honourable Supreme Court in EPF Organization and Another v. Sunil Kumar B and Others (2022 SCC online SC 1521). Hence, the respondents are ready to reconsider the grievance of the petitioners.

5. Having considered the pleadings and materials on record, the law laid down in the aforesaid judgment and the submission made by the learned counsel appearing for the parties, I am inclined to dispose of the writ petition.

Resultantly, I order the writ petition thus:

(i) The respondents 2 to 4 are directed to re-consider the claims put forth by the petitioners, in the light of the principles laid down by the Honourable Supreme Court in the afore-cited decision, on the petitioners submitting a representation within a period of one month from the date of receipt of a copy of this judgment.

(ii) If the petitioners submit such a representation, the same shall be considered by the respondents 2 to 4, in accordance with law and as expeditiously as possible, at any rate within a further period of three months from the date of submission of the representation, after affording the petitioners/ their duly authorised representative an opportunity of being heard.