(2004) 03 GUJ CK 0036

In the Gujarat High Court

Case No : Special Civil Application No''s. 4615 and 4850 of 1999, 9454 and 12942 of 2000 and 5746 of 2002

Poul Cyril Parmar APPELLANT

Vs

District Education Officer RESPONDENT

Date of Decision : 01-03-2004

Acts Referred:

Citation : (2004) 24 GLH 366 : (2004) 2 GLR 482

Hon'ble Judges : Akshay H. Mehta, J

Bench : Single Bench

Advocate : Kirit J. Macwan, for Petitioner Nos. 1-6 in Special Civil application No. 9454 of 2000, J.D. Ajmera in Special Civil application Nos. 4615 and 4850 of 1999 and 12937 and 12942 of 2000 and Mamta Vyas in Special Civil application No. 5746 of 2002, for the Appellant; Mukesh Patel and Pradip Bhate, A.G.P.s for Respondent Nos. 1-2 and P.J. Mehta, in Special Civil Application Nos. 4615 of 1999, 4850 and 9454 and 12942 of 2000, Mukesh Patel and Pradip Bhate, A.G.P.s for Respondent Nos. 1-3 and Mamta Vyas, in Special Civil Application No. 12937 of 2000, Mukesh Patel and Pradip Bhate, A.G.P.s for Respondent Nos. 1-3 and P.J. Mehta, in Special Civil Application No. 5746 of 2002, for the Respondent

Final Decision : Allowed

Judgement

Akshay H. Mehta, J.—As these six petitions involve a common question of fact, pertaining to interpretation of the direction given by the Division Bench of this Court (Coram : M.R. Calla, N.G. Nandi, JJ.) vide judgment dated 31st July, 2001 rendered in Letters Patent Appeal No. 788 of 1998 in Special Civil Application No. 3635 of 1982, they have been heard together and now they are being disposed of by this common judgment.

2. To appreciate the controversy involved in this group of petitions, it would be necessary to state certain facts. Special Civil Application No. 3635 of 1982 was preferred by teacher of the Non Government (Private) and Grant-in-Aided school which was run by Education Board of Baroda Methodist Church, Gujarat Conference in Southern Asia, now run by Methodist Church in India with effect

from 1st August, 1858. Her grievance in the said petition was that though she had opted for pension, the same was denied to her on the ground that pension scheme was not applicable to the teachers of the Primary Non-Government (Private) and recognised Grant-in-Aided schools. The learned Single Judge of this Court (Coram : S.K. Keshote, J.) by judgment dated 18th January, 1997 came to the conclusion that like the teachers of the Non Government (Private) and recognised Grant-in-Aided Higher Secondary and Secondary schools, the teachers of Primary school were also required to be given benefit of pension. It was so held by the learned Single Judge of this Court on the ground that the Government could not create class within a class and give them discriminatory treatment by not extending to them the benefit of the pension scheme.

2.1 The said decision came to be challenged by way of Letters Patent Appeal and since it was time barred, Civil Application No. 11548 of 1998 was also filed alongwith it. The Division Bench of this Court vide order dated 30th December, 1998, rejected the application and refused to condone the delay. It also observed that in view of the rejection of the aforesaid Civil Application, appeal did not survive.

2.2. The State thereafter challenged the said order of 30th December, 1998 before the Apex Court by way of Special Leave Petition. The Apex Court granted leave vide order dated 2nd August, 1999 and on that very day, Civil Appeal No. 4291 of 1999 was decided by it. The Apex Court set aside the order of Division Bench of this Court and remanded the matter back to this Court for being decided on its merits. While passing the order, the Apex Court took into consideration the fact that there were large number of petitions of such nature pending, praying for identical relief. It, therefore stated in its order as under :-

"We have heard learned counsel for the parties. Initially, we were not inclined to interfere with the order which is under challenge in this appeal. However, subsequently, it was brought to our notice that a number of writ petitions by similarly situated persons have been filed wherein identical reliefs have been claimed. It is also stated at the Bar that in one of such petitions contempt proceedings, have been taken against the appellants and its officers. Keeping in view the fact that the question involved in this matter is likely to affect a large number of persons and also considering the explanation furnished by the appellants for the delay in filing the Letters Patent Appeal, we feel that this matter requires to be finally decided by the High Court.

Keeping in view the larger interests, we condone the delay in filing the Letters Patent Appeal and send the case back to the High Court for decision on merits after setting aside the judgment under appeal. Since the respondent has to come to this Court to contest this appeal, we direct the appellants not to claim any refund of money that has already been paid to respondent no. 1 in pursuance of the judgment under appeal in case the Letters Patent Appeal is decided against her. The appeal is disposed of accordingly. There shall be no order as to costs."

2.2. Thus, the aforesaid Letters Patent Appeal No. 788 of 1998 came to be placed before the aforesaid Division Bench. Upon detail hearing of the same, the Division Bench by its decision dated 31st July, 2001, fully agreed with the view taken by the learned Single Judge and confirmed the said judgment. However, considering the fact that large number of persons were likely to be affected by the said decision, the Division Bench thought it fit to direct the State Government to frame a common scheme for the entire class. It, therefore, discussed the issue from that angle also and in paragraph 5 of its judgment it observed as under :-

"5. Therefore, while upholding the order as has been passed by the learned Single Judge, we direct the State Government to frame an appropriate scheme for the purpose of giving pensionary benefits to the teachers of the primary schools of above nature. Modalities with regard to the date of commencement of the pension scheme as also the date from which the actual payment of pension is to be made in case of teachers who were already retired may be worked out."

2.3. Thus, in this paragraph the Division Bench directed the State Government to frame appropriate scheme for the purpose of giving pensionary benefits to the teachers of the primary schools and also asked the Government to keep in view, while framing the scheme, the modalities with regard to the date of the commencement of the pension scheme as also the date from which the actual payment of pension was to be made, in case of teachers who had already retired. It is, therefore, clear that the Division Bench was of the opinion that whatever, the benefit that would be given under the scheme, it had to be with retrospective effect covering the persons who had already retired from the service. Further the Division Bench in paragraph 6 held as under:-

"6. In this regard, certain aspects have been brought to our notice by the learned Senior Counsel. Mr. H.M. Mehta, and we find that such factors are relevant and quite germane for the purpose of evolving such a scheme for payment of pension to the teachers of Non Government (Private) but Government recognised and Government Aided Primary Schools and we accordingly direct that while framing the scheme and determining the date of commencement of the scheme the State Government shall keep in view the following aspects and treat the teachers of such primary schools at par with the teachers of similarly situated Colleges/ Higher Secondary Schools/Secondary Schools for the purpose of pension by issuing appropriate Government Resolution ."

2.4. It, therefore, made it very clear in paragraph 6 that while framing the scheme and determining the date of the commencement of the scheme, the State was required to keep in view the factors and the aspects mentioned in the said judgment. These factors are stated in paragraph 6 itself. It is also required to be noted that it was specifically directed that while doing so it should treat the teachers of such primary schools at par with the teachers of the similarly situated College/Higher Secondary School/ Secondary Schools for the purpose of pension. The factors which are considered relevant for the purpose of framing the scheme have been enumerated by the Division Bench as under :-

(i) That the Employees'' Provident Funds and Miscellaneous Provisions Act, 1952 [14th March, 1952] was an Act to provide for the initiation of the Provident Funds (Pension Fund) and Deposit Linked Insurance Fund for employees in factories and other establishments;

(ii) That this Act was applied to the employees working in educational establishments on 19th of February, 1982;

(iii) That as has been pointed out by Mr. H.M. Mehta, in case of educational institutions, the Supreme Court while admitting a batch of writ petitions filed by number of educational institutions had stayed the operation of the Government of India''s Notification S.O. No. 986 dated 19th February, 1982, applying the Act to Educational Institutions and the general stay continued till January, 1988, and while deciding and dismissing these petitions finally in January, 1988, the Supreme Court, in the cases of M/s. D.A.V. College and Anr., v. Regional Provident Fund Commissioner and Ors., reported in 1988 (2) G.L.R. 170 decided on 29.1.1988 and Welham Girls High School Society, Dehradun v. union of India and Ors. reported in 1988 (2) G.L.R. 172 decided on 28.1.1988 ordered as under :-

"We do not find any substance in the contention of the petitioners in these cases that the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the Act") has no application to the educational institutions, who are petitioners in these cases. We, therefore, dismiss these cases.

2. We direct that the petitioners shall comply with the Act and the schemes framed thereunder regularly with effect from 1.2.1988, whatever, arrears they have to pay under the Act, and the schemes in respect of the period between 1.3.1982 and 1.2.1988 shall be paid in each of the petitioners within such time as may be granted by the Regional Provident Fund Commissioner. If the petitioners pay all the arrears payable from 1st March, 1982 upto 1st February, 1988 in accordance with the directions of the Regional Provident Fund Commissioner he shall not levy any damages for the delay in payment of the arrears. Having regard to the special f s of these cases the subscribers (the employees) shall not be entitled to any interest on the arrears. The writ petitions are disposed of accordingly. No costs."

(iv) In light of the Supreme Court''s judgment as aforesaid, it may be considered that as a consequence of general stay granted by the Supreme Court of the operation of the Government of India''s notification S.O. No. 986 dated 19th February, 1982 the educational institutions had not recovered the employees'' share of contributions from their wages during the period (March 1982 to January, 1988) when the stay order was in force and therefore in such cases insistence of the payment of the employees'' share of contributions by the institutions themselves will not be in order. Therefore, it was decided by the Central Board of Trustees in consultation with the Ministry of Labour, Government of India, that in cases where the educational institutions had not actually recovered the employees'' share of contributions from their wages for the period from 1.3.1982 to 31.1.1988 payment of the same need not be insisted upon and the same may be waived except in cases where the employer or the employees volunteer to pay the same in lump-sump or in installments and in cases where the employees'' share of contribution for the abovesaid period has already been deposited by any of the educational institutions and has been credited to the respective accounts of the employees, the question of its refund does not arise and such cases should not be reopened.

(v) The date of judgment of the learned Single Judge is 18th January, 1997."

2.5. In paragraph 7 of the judgment, the Division Bench has again observed that all the aforesaid factors may be taken into consideration by the State while framing the scheme for the purpose of fixing the date of commencement of the scheme with regard to the teachers of the private institutions imparting primary education which are recognised and aided, and in case of retired teachers, the amount of pension be fixed on notional basis from the date of the commencement of the scheme. Such scheme would be framed by the State Government within a period of three months from the date of receipt of the certified copy of this order.

3. It is now to be noted that pursuant to the aforesaid direction, the State has framed the scheme extending the benefit of pension to the aforesaid category of the teachers of the primary schools. The said scheme has been brought into existence by Resolution dated 6th April, 2002.

3.1. It has been made effective from 1st January, 1997. The said scheme however, does not envisage, in cases of the teachers already retired after 1st January, 1997 and before the date 6th April, 2002, whether payment of the pension would commence from the date of the Resolution i.e. 6th April, 2002 on the date on which the scheme was introduced or from the date it was made effective.

4. It is the grievance of the petitioners that the scheme that has been made effective from 1st January, 1997, ought to have been extended further and made applicable even to the employees or the teachers who have retired prior to that date.

5. I have heard Mr. J. D. Ajmera, Mr. K.J. Mackwan and Ms. Mamta Vyas for the petitioners and Mr. Mukesh Patel learned A.G.P. for the respondents. The main submission of the learned counsels for the petitioners is that the respondents have not properly interpreted the directions that have been given by the Division Bench in its judgment and that has caused injustice to them. It may be noted here that all the petitioners have retired prior to 1st January, 1997. Their submission is that the scheme has to be made applicable to them also and not alone to the teachers who have retired on or after 1st January, 1997. It is further submitted that the persons who have retired prior to 1st January, 1997, will be

discriminated, if cutoff date is allowed to be as 1st January, 1997.

5.1. As against that the submission of Mr. Mukesh Patel learned A.G.P. is that in the judgment of the Division Bench no specific indication has been given by the Court to make the scheme effective from particular date or particular year. It also does not give any indication regarding the actual date from which the payment was required to be made. In other words, except for giving direction with regard to determining the date of commencement of pension scheme and date from which the actual date of pension to be made, nothing more has been indicated. He has further submitted that if the scheme is to be made effective from the year 1982, it will cause enormous financial burden on the State and when those persons have already been given the benefit under the Employees Provident Fund and Misc. Provisions Act, 1952, they are not required to be covered under this scheme. He has submitted that proper course for the petitioners was to approach the concerned Court by filing review application or such other proceeding. Lastly, he has submitted that these petitions have no merit and they are required to be dismissed. No other argument has been advanced by him. Mr. Pradip Bhate the learned A.G.P. has adopted the said submissions.

5.2. Other respondents though served no one has appeared on their behalf.

6. Having gone through the record of these petitions and in particular the judgment of the Division Bench delivered in Letters Patent Appeal No. 788 of 1998, it is clear that the factor that weighed with the Apex Court for remanding the matter to this Court for decision on merits was that large number of retired teachers had filed petitions praying for the benefit of pension and the issue was required to be decided on its merits. It may be further noted here that the Division Bench also, keeping in view this very fact, seems to have directed the Government to frame the scheme so as to cover this class of teachers who according to the learned Single Judge as well the Division Bench were left out from the benefit of the pension. When this is the background in which the scheme is framed, the question that would be required to be decided by this Court is whether the scheme is framed in accordance with the factors that have been given by the Division Bench in paragraph 6 of its judgment. Therefore it will be necessary to examine the factors one by one.

6.1. The first clause is that the Employees'' Provident Funds and Miscellaneous Provisions Act, 1952 ("E.P.F. Act" for short) was initiated to provide for the Provident Funds (Pension Fund) and Deposit Linked Insurance Fund for employees in factories and other establishments. The second clause is in respect of date of application of the said Act to the educational establishments being 19th February, 1982. While prescribing the third factor, the Division Bench has referred to several decisions of the Apex Court and has even quoted two paragraphs from the said decisions and in Clause (iv) it has referred to the directions that were given by the Apex Court to pay the arrears to the persons entitled to E.P.F. under the E.P.F. Act and further that the employer should not insist for the employees'' contribution between the period from 1st March, 1982 to 31st January, 1988, unless the concerned employee himself voluntarily offered to pay his contribution either in lumpsum or in installments. In the last clause i.e. Clause (v) it is mentioned that the date of the judgment of the learned Single Judge is 18th January, 1997.

7. Now, it can be seen that the Division Bench was very clear on all the aspects. The scheme was required to be framed on the modalities suggested by it with regard to the date of commencement of the pension scheme and the date of the actual payment were to be made and that was to be done in accordance with the factors that have been enumerated in paragraph 6 of the judgment.

7.1. It may be noted here that the pension scheme is offered as an alternative to the benefit that was being received under the E.P.F. Act by the retired employee. This fact is very clear from the judgment of the learned Single Judge where the petitioner of that case has been directed that she should refund the share of the contribution of the employer together with interest thereon. In the scheme also, such provisions are made. It can also be seen here that under the scheme those who have retired after 1st January, 1997 but before the date of Resolution, have to exercise option within six months of the date of Resolution i.e. 6th April, 2002. Subclause (6) of Clause 5 prescribes that those who have joined service on or after 1st January, 1997 E.P.F. scheme would not apply. Thus, when the Division Bench has in Clause (i) & (ii) of para 6 of its judgment referred to applicability of the E.P.F. Act, initially to the employees working in factories and other establishments and thereafter to the employees working in the educational establishments with effect from 19th February, 1982, there is considerable significance of it. It may further be noted here that in Clause (iii) reference to certain cases has been made wherein, before the Apex Court, the educational institutions had challenged the extension of applicability of the E.P.F. Act to the educational institutions and establishments. Those cases came to be finally decided by judgment dated 20th January, 1988. The Division Bench has even quoted paragraph 2 of that judgment of the Apex Court wherein, it has been directed that the petitioners - educational institutions shall comply with the Act and the Scheme framed under it regularly with effect from 1st February, 1988. It at the same time has directed the aforesaid educational institutions to clear the arrears that they were required to pay under the Act and the scheme made thereunder in respect of period between 1st March, 1982 to 1st February, 1988. It may be seen from the aforesaid directions that though the Apex Court directed the educational institutions to regularly implement the scheme made under the E.P.F. Act with effect from 1st February, 1988, it had also directed them to clear the arrears between the period 1st March, 1982 and 1st February, 1988. As stated above, the E.P.F. Act has been made applicable to the educational institutions from 19th February, 1982. Thus, the Apex Court had extended the benefit under the E.P.F. Act to the employees of educational institutions and establishments soon after the date of Government of India''s Notification i.e. from 1st March, 1982, though it had called upon such institutions to regularly implement the scheme with effect from 1st February, 1988. So far as the stay that was granted by the Apex Court against the Notification issued by the Government of India dated 19th February, 1982, it was directed that no insistence was to be made for payment of the employees'' contribution under the E.P.F. scheme between the period 1st March, 1982 and 31st January, 1988, unless the concerned employee voluntarily expressed his willingness either to pay such contribution in lumpsum or by way of installments. Thus, full benefit under the said Act was extended by the Apex Court to such employees. It had even taken care to see that stay order that was granted by it in favour of the educational establishments did not cause hardship or difficulty or in any way adversely affect the interest of the employees. In the present case, the Division Bench in Clause (v) of paragraph 6 of its judgment has simply referred to the date of the judgment of the learned Single Judge i.e. 18th January, 1997. In paragraph 7 of the judgment as stated above, the respondent - State is directed to take all the aforesaid factors into consideration for the purpose of determining the date of commencement of the scheme and in case of retired teachers the amount of payment to be fixed on notional basis from the date of the commencement of the scheme. Acting upon the direction of the Division Bench, the respondent - State has framed the scheme on 6th April, 2002, and has made it effective from 1st January, 1997. It has however not specifically mentioned anywhere whether the persons who retired with effect from 1st January, 1997 would receive only the notional benefit thereof, or the actual payment to be made to them.

7.2. When the Division Bench has been careful enough to refer to in detail certain aspects with regard to benefit that had been made available to the teachers in educational establishments and when the present scheme i.e. the pension scheme is an alternative to the benefit that may be received by the retired teacher, under the E.P.F. Act, it will be necessary to decide whether it was the intention of the Division Bench to make the pension scheme applicable with effect from 1st March, 1982. The demand of the petitioners of these petitions is that its benefit should be extended even to the teachers who have retired prior to 1st January, 1997. In my opinion, since the Division Bench has considered and dealt with the aspect regarding the applicability of the E.P.F. Act to the educational institutions in detail, there is some purpose behind it. It may also be noted here, that so far as the petitioners are concerned, their prayer is that though the scheme was made effective from the year 1997, they may be notionally considered covered under the scheme and the actual payment of the pension be made available to them with effect from 1st January, 1997. It, therefore, very clearly emerges that when the Division Bench enunciated certain factors in its judgment by referring to the material that was placed before it by the counsels appearing for the parties and in particular for the petitioner, it wanted to earmark class of aforesaid teachers for benefit under the scheme of pension right from the year 1982 i.e. the year the E.P.F. Act was made applicable to such establishments. While dealing with the aforesaid factors, the Division Bench has also taken into consideration various Notifications that had been issued by the State Government extending the benefit of pension scheme to the teachers of Secondary schools and college. It is stated by Mr. Ajmera at the bar that so far as the Notification in respect of secondary teachers is concerned, it is dated 21st December, 1971 and it was made effective from 1st April, 1969. So far as the teachers of the college are concerned, Resolution is dated 15th October, 1984. However, Mr. Ajmera and Mr. Patel were not in a position to state from what date the scheme was made effective. Anyhow, the fact remains that so far as the secondary teachers are concerned, they have been receiving this benefit from 1st April, 1969 and in respect of teachers of the college, the Notification was issued in the month of October, 1984. Both the Division Bench as well as the learned Single Judge have in no uncertain terms said that the teachers of the primary schools of the aforesaid category are at par with teachers of Secondary schools and college. It is, therefore, obvious that when those teachers have been receiving this benefit since long, it was very much desirable that teachers of the Primary schools should also be given such benefit from a particular date whereby they may also get the benefit of the scheme from around the same time. That apart when it is an alternative of the benefit under the E.P.F. Act, that benefit should also be offered to the teachers from or around the time the provisions of E.P.F. Act were made applicable to the educational establishments. The Division Bench would not have mentioned details regarding E.P.F. Act without any meaning. The said date is 19th February, 1982. No better date could be than 1st March, 1982 to be determined as the effective date. In that view of the matter, there is no doubt in my mind that the Division Bench intended to give the benefit of the scheme that may be framed by the State of Gujarat with effect from the year 1982. Ofcourse, it had also taken care to see that no unnecessary financial burden is thrown on the State Government. It had also said that for the purpose of determining the benefit under the scheme their pension amount be notionally fixed from the date of the commencement of the scheme. The petitioners herein have also made the same request since their prayer is that prior to the cutoff date i.e. 1st June, 1997 their pension be fixed on notional basis and the actual payment may be made from the date of the commencement of the scheme. In the present scheme, there is no such bifurcation of period as indicated by the Division Bench. For that also it could be said to be not in consonance with the direction contained in the judgment of the Division Bench.

7.3. Further, indication could be had for determining date of commencement and the date of the actual benefit to be made, from two different dates that have been mentioned in Clause (ii) and clause (v). As stated above in Clause (ii), 19th February, 1982 has been mentioned as date of the application of the E.P.F. Act to the employees working in the educational establishments and in Clause (v) the date of the judgment of the learned Single Judge is given as 18th February, 1997. These two dates are to be adjusted. That indication has been given in Clause (iii) by reproducing para 2 of the judgment of the Apex Court dated 29th January, 1988 and also reproduction of certain direction of the Apex Court contained in clause (iv) of paragraph 6 of the Division Bench''s judgment. A conjoint reading of this clause would therefore in my mind definitely suggest that what the Division Bench intended was that the scheme be made effective from the month of February, 1982 or around that time but actual payment to be made from January, 1997. That has not been done by the State of Gujarat and, therefore, in my opinion, the grievance of the petitioners is justified.

8. The sum and substance of the aforesaid discussion is that while determining the date of commencement of the scheme the Government has completely ignored the guidelines provided by it. When the Division Bench of this Court has given mandate to the Government that it shall frame the scheme and that too in accordance with the factors suggested by the Division Bench, it was the duty of the Government to frame the scheme accordingly. Mandate had become final since no S.L.P was preferred by the Government against the said judgment before the Apex Court. The Government has ignored the mandate while determining the date of commencement of the scheme and thereby failed to perform its duty. This Court, therefore, can interfere with the scheme to the extent it determines the date of commencement as 1st January, 1997 and to that extent it is required to be quashed and it is hereby ordered to be quashed.

9. So far as Special Civil Application No. 5746 of 2002 is concerned, the petitioners grievance is that she had already preferred one Special Civil Application No, 4604 of 2000 which came to be decided by the learned Single Judge of this Court (Coram : Ravi R. Tripathi, J.) vide judgment dated 18th April, 2000. She succeeded in the petition and the learned Single Judge directed the respondents to work out the petitioners claim for pension within reasonable time and in case not more than six months. Against the said judgment no Letters Patent Appeal has been preferred. The petitioner, therefore, submits that the respondents have not complied with the direction given by the learned Single Judge, instead they have prolonged the grant of benefit unnecessarily. Now the State has given the benefit of pension but it is not given from the date of actual retirement i.e. 31st May, 1996, but from 1st January, 1997, in accordance with the scheme that has been framed by it. The grievance of Ms. Vyas''s petitioner is justified. When she had preferred petition which was decided by the learned Single Judge of this Court requiring other side to grant benefit of pension from the date of the retirement, it was incumbent upon the Government to comply with the direction more so when it had not preferred appeal against such direction. For all practical purpose, the said judgment had become final and, therefore, it was incumbent upon the respondent to strictly comply with the order of the Court. That has not been done. In that case also, the respondent will have to be directed to make the benefit of pension available to the petitioner of this petition from the date of her actual retirement. The respondents are accordingly, directed to work out the case for pension from the actual date of retirement and to pay to the petitioner the pension from the date of her actual retirement and not from 1st January, 1997.

7.5. In the present case before me, the petitioners have retired between the period 1991 and 1996. So far as Special Civil Application No. 4615 of 1999 is concerned, the petitioner has retired on 31st March; Special Civil Application No. 4850 of 1999 is concerned, it is 31st October, 1992; Special Civil Application No. 12937 of 2000 is concerned, it is 31st October, 1991 and Special Civil Application No. 12942 of 2000 is concerned, it is 31st October, 1994. So far as the petitioners in Special Civil Application No. 9545 of 2000 are concerned, they have retired on 31st May, 1993 and 31st May, 1994. The Government is, therefore, directed to make the scheme applicable to them and to consider them eligible for payment of pension. The respondents are also directed to work out their cases of pension as early as possible and not later than 31st May, 2004. In the event, if the petitioners have received any benefit under the E.P.F. Act, they shall return the Employer''s contribution with 6% interest thereon, at the time of exercising option. So far as petitioner of Special Civil Application No. 5746 of 2002 is concerned, she stands slightly on better footing than the other petitioners because in her case, the judgment of the learned Single Judge of this Court has become final where the respondents have been directed to work out the grant of pensionary benefits from the date of her actual retirement i.e. 31st May, 1996. Her claim should be worked out as early as possible and not later than 30th April, 2004.

In the event, all these petitions are allowed. Rule is made absolute with no order as to costs.

The office is directed to place copy of the judgment in each petitions.