



सत्यमेव जयते

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM**

Present: Shri.V.Vijaya Kumar, B.Sc., LLM, Presiding Officer.

(Friday the 26th day of March, 2021)

**APPEAL Nos.72/2020, 73/2020, 74/2020, 75/2020, 76/2020,
77/2020, 78/2020, 79/2020, 80/2020, 81/2020, 82/2020, 83/2020,
84/2020, 85/2020, 86/2020, 87/2020, 88/2020, 89/2020 & 90/2020**

- Appellants : 1. V.Z.Faisal Muhammed
Valiyaveedu
Crescent Nagar
S.R.M. Road, Kochi – 682018
2. Sudarsanan P. K.
Perumuttath House
Koduvazhanga, Neericode P.O.
Alangad, Ernakulam - 683511
3. Babu Raj T.
8/130 Thekkeetil (H)
Poozhithodu Ferry Road
South Chittoor
Ernakulam – 682027
4. N. Vijayakumar
Gopurathinkal (H)
Koonamthai, Edappally P.O.
Kochi – 682024
5. V. K. Hydrose
Valayan Kunnil House
Vayalakkadu
U. C. College P.O.
Aluva, Ernakulam – 683102

6. K. Narayanan Nair
Sreevalsam, JRA 14
Manjummel P.O.
Ernakulam – 683501
7. Kunju Mohmmed K. A.
Panapilly House
Kuttamassery
Thottumugham P.O.
Aluva, Ernakulam - 683105
8. V. Joseph Varghese
Veliyath House
East Angadi
Koratty P.O.
Thrissur – 680308
9. Vasudevan Nair R.
Kunnathuparambil House
Paruvassery P.O.
Vadakkuchery
Palakkad – 678686
10. Mohandas Pillath
Kezhukoot House
Muriyad P.O.
Thrissur - 680683
11. M. S. Sasidharan
Manapurath House
Moloth Road, Unichira
Thrikkakara P.O.
Ernakulam – 682021
12. K. S. Ibrahimkutty
Kuttungal House
Mannamthuruth
Varapuzha P.O.
Ernakulam - 683517

13. Varghese C.O.
Chirakal House
Nr. Infant Jesus L.P. School
Kidangoor P.O., Angamaly
Ernakulam – 683591
14. Joseph K. A.
Kurisinkal House
Kalchoor Road, Manjummel P.O
Ernakulam – 683501
15. V. P. Ahammed
Vettukattil
Vazheli Parambil House
U.C. College P.O.
Aluva, Ernakulam – 683102
16. P. Govindankutty
Arya 44, Sivaparvathy
Nr. Makaliyam Temple
Irumpanam P.O.
Ernakulam
17. M. A. Thomas
Madappalil House
Manjummal
Udyogamandal
Ernakulam – 683501
18. K. S. Varghese
Chakkalakidangil House
Vidya Nagar no.3
Cochin University P.O.
Ernakulam – 682022

19. Micheal V. P.
MIG-89, Surabhi Nagar
Kusumagiri P.O.
Kakkanad
Ernakulam - 682033

By Adv.R.Sanjith

Respondents : 1. The Regional PF Commissioner
EPFO, Regional Office, Kaloor
Kochi – 682017

By Adv.Sajeev Kumar K. Gopal &
Adv. S. Prasanth

2. M/s.HIL (India) Ltd
Udyogamandal P.O.
Ernakulam - 683501

This case coming up for final hearing on 09.03.2021 and this Tribunal-cum-Labour Court on 26.03.2021 passed the following:

ORDER

Appeal no.72/2020 (V.Z.Faisal Muhammed Vs EPFO and others) is filed from order no. KR/KCH/SP. CELL/GEN.FILE/WP(C) 5661/2020-PPO No.106120/3460 dt.28.09.2020 in the matter of judgment of the Hon'ble High Court of Kerala in W.P.(C) no.5661/2020-V.Z.Faisal Muhammed and others Vs EPFO and others.

2. **Appeal no.73/2020** (Sudarsanan P. K. Vs EPFO and others) is filed from order no. KR/KCH/SP. CELL/GEN.FILE/WP(C) 5661/2020-PPO No.110469/

3483 dt.01.10.2020 in the matter of judgment of the Hon'ble High Court of Kerala in W.P.(C) no.5661/2020-V.Z.Faisal Muhammed and others Vs EPFO and others.

3. **Appeal no.74/2020** (Babu Raj T. Vs EPFO and others) is filed from order no.KR/KCH/SP.CELL/GEN.FILE/WP(C)5661/2020-PPO No.106606/3491 dt.01.10.2020 in the matter of judgment of the Hon'ble High Court of Kerala in W.P.(C) no.5661/2020-V.Z.Faisal Muhammed and others Vs EPFO and others.

4. **Appeal no.75/2020** (N. Vijayakumar Vs EPFO and others) is filed from order no. KR/KCH/SP. CELL/GEN.FILE/WP(C) 5661/2020-PPO No.110317/3411 dt.28.09.2020 in the matter of judgment of the Hon'ble High Court of Kerala in W.P.(C) no.5661/2020-V.Z.Faisal Muhammed and others Vs EPFO and others.

5. **Appeal no.76/2020** (V.K.Hydrose Vs EPFO and others) is filed from order no.KR/KCH/SP. CELL/GEN.FILE/WP(C) 5661/2020-PPO No.109386/3473 dt.01.10.2020 in the matter of judgment of the Hon'ble High Court of Kerala in W.P.(C) no.5661/2020-V.Z.Faisal Muhammed and others Vs EPFO and others.

6. **Appeal no.77/2020** (K. Narayanan Nair Vs EPFO and others) is filed from order no. KR/KCH/SP. CELL/GEN.FILE/WP(C) 5661/2020-PPO No.106689/3407 dt.28.09.2020 in the matter of judgment of the Hon'ble High Court of Kerala in W.P.(C) no.5661/2020-V.Z.Faisal Muhammed and others Vs EPFO and others.

7. **Appeal no.78/2020** (Kunju Mohammed K. A. Vs EPFO and others) is filed from order no. KR/KCH/SP. CELL/GEN.FILE/WP(C) 5661/2020-PPO No.107418/ 3399 dt.28.09.2020 in the matter of judgment of the Hon'ble High Court of Kerala in W.P.(C) no.5661/2020-V.Z.Faisal Muhammed and others Vs EPFO and others.

8. **Appeal no.79/2020** (V. Joseph Varghese Vs EPFO and others) is filed from order no. KR/KCH/SP. CELL/GEN.FILE/WP(C) 5661/2020-PPO No.106220/ 3396 dt.28.09.2020 in the matter of judgment of the Hon'ble High Court of Kerala in W.P.(C) no.5661/2020-V.Z.Faisal Muhammed and others Vs EPFO and others.

9. **Appeal no.80/2020** (Vasudevan Nair R. Vs EPFO and others) is filed from order no. KR/KCH/SP. CELL/GEN.FILE/WP(C) 5661/2020-PPO No.110909/ 3414 dt.28.09.2020 in the matter of judgment of the Hon'ble High Court of Kerala in W.P.(C) no.5661/2020-V.Z.Faisal Muhammed and others Vs EPFO and others.

10. **Appeal no.81/2020** (Mohandas Pillath Vs EPFO and others) is filed from order no.KR/KCH/SP. CELL/GEN.FILE/WP(C) 5661/2020-PPO No.106793/ 3489 dt.01.10.2020 in the matter of judgment of the Hon'ble High Court of Kerala in W.P.(C) no.5661/2020-V.Z.Faisal Muhammed and others Vs EPFO and others.

11. **Appeal no.82/2020** (M.S.Sasidharan Vs EPFO and others) is filed from order no. KR/KCH/SP.CELL/GEN.FILE/WP(C) 5661/2020-PPO No.111022/ 3398 dt.28.09.2020 in the matter of judgment of the Hon'ble High Court of Kerala in W.P.(C) no.5661/2020-V.Z.Faisal Muhammed and others Vs EPFO and others.

12. **Appeal no.83/2020** (K. S. Ibrahimkutty Vs EPFO and others) is filed from order no. KR/KCH/SP. CELL/GEN.FILE/WP(C) 5661/2020-PPO No.108791/ 3469 dt.28.09.2020 in the matter of judgment of the Hon'ble High Court of Kerala in W.P.(C) no.5661/2020-V.Z.Faisal Muhammed and others Vs EPFO and others.

13. **Appeal no.84/2020** (Varghese C.O. Vs EPFO and others) is filed from order no. KR/KCH/SP. CELL/GEN.FILE/WP(C) 5661/2020-PPO No.108580/3392 dt.28.09.2020 in the matter of judgment of the Hon'ble High Court of Kerala in W.P.(C) no.5661/2020-V.Z.Faisal Muhammed and others Vs EPFO and others.

14. **Appeal no.85/2020** (Joseph K. A. Vs EPFO and others) is filed from order no. KR/KCH/SP. CELL/GEN.FILE/WP(C) 5661/2020-PPO No.107227/3488 dt.01.10.2020 in the matter of judgment of the Hon'ble High Court of Kerala in W.P.(C) no.5661/2020-V.Z.Faisal Muhammed and others Vs EPFO and others.

15. **Appeal no.86/2020** (V. P. Ahammed Vs EPFO and others) is filed from order no. KR/KCH/SP. CELL/GEN.FILE/WP(C) 5661/2020-PPO No.107906/3490

dt.01.10.2020 in the matter of judgment of the Hon'ble High Court of Kerala in W.P.(C) no.5661/2020-V.Z.Faisal Muhammed and others Vs EPFO and others.

16. **Appeal no.87/2020** (P. Govindankutty Vs EPFO and others) is filed from order no. KR/KCH/SP. CELL/GEN.FILE/WP(C) 5661/2020-PPO No.106796/3482 dt.01.10.2020 in the matter of judgment of the Hon'ble High Court of Kerala in W.P.(C) no.5661/2020-V.Z.Faisal Muhammed and others Vs EPFO and others.

17. **Appeal no.88/2020** (M. A. Thomas Vs EPFO and others) is filed from order no. KR/KCH/SP. CELL/GEN.FILE/WP(C) 5661/2020-PPO No.110989/3478 dt.01.10.2020 in the matter of judgment of the Hon'ble High Court of Kerala in W.P.(C) no.5661/2020-V.Z.Faisal Muhammed and others Vs EPFO and others.

18. **Appeal no.89/2020** (K. S. Varghese Vs EPFO and others) is filed from order no. KR/KCH/SP. CELL/GEN.FILE/WP(C) 5661/2020-PPO No.110262/3479 dt.01.10.2020 in the matter of judgment of the Hon'ble High Court of Kerala in W.P.(C) no.5661/2020-V.Z.Faisal Muhammed and others Vs EPFO and others.

19. **Appeal no.90/2020** (Micheal V. P. Vs EPFO and others) is filed from order no. KR/KCH/SP. CELL/GEN.FILE/WP(C) 5661/2020-PPO No.108827/3484 dt.01.10.2020 in the matter of judgment of the Hon'ble High Court of Kerala in W.P.(C) no.5661/2020-V.Z.Faisal Muhammed and others Vs EPFO and others.

20. All the above appeals arise out of a common order issued by the 1st respondent and raise common issues. Hence all the appeals are heard together and disposed of by a common order.

21. Appellants are retired employees of the second respondent which is a Govt of India Enterprise under the Department of Chemicals and Petrochemicals, Ministry of Chemicals and Fertilisers, Govt of India. The employees of the 2nd respondent are covered under the provisions of the EPF & MP Act, 1952 (hereinafter referred to as 'the Act'). The 1st respondent is empowered to adjudicate upon the complaints preferred by the appellants. The 1st respondent issued an order after adjudicating the complaint U/s 7A (1)(b) of the Act for rectifying the errors in computation of his monthly pension paid under Employees Pension Scheme, 1995. The true copy of the order dt.28.09.2020 is produced and marked as Annexure A2. As per Para 12 of EPS 1995, the pension is depended on pensioner's salary and pensioner's service. While calculating the pensioner's salary, the 1st respondent failed to take into account the pay revision that was implemented after the retirement of the appellants. Accordingly the appellants preferred Annexure A1 complaint requesting the 1st respondent to adjudicate the appellant's claim and revise the monthly pension, undertaking to remit any shortfall or such other amounts to provident fund authority for revising the monthly pension. The 1st respondent

issued notice to the 2nd respondent to clarify whether any pension contribution on arrears was remitted after the date of exit of the appellant. A true copy of the notice issued by the 1st respondent to the 2nd respondent is produced and marked as Annexure A3. The appellant also sought the same information under Right to Information Act from the 2nd respondent. The reply received from the 2nd respondent is produced and marked as Annexure A4. In response to A1 complaint, the 2nd respondent filed a reply before the 1st respondent stating that the company has not remitted the contribution in respect of arrears paid to the employees. A true copy of the reply filed by the 2nd respondent before the 1st respondent is produced and marked as Annexure A5. 1st respondent passed the Annexure A2 order rejecting the complaint of the appellants.

22. The 1st respondent entered appearance and filed a preliminary objection. According to the 1st respondent, 45 pensioners of the 2nd respondent filed W.P. no.5661/2020, before the Hon'ble High Court of Kerala seeking direction to be issued to the respondent to take up their complaints regarding computation of pension under EPS 1995. The Hon'ble High Court of Kerala vide judgment dt.26.02.2020 disposed of the matter directing the respondent to take up the complaints and to pass appropriate orders on merits. The 1st respondent examined the matter and rejected the Annexure 1 application for revision of pensioner's salary and consequent revision of pension. According to

the 1st respondent, the present appeal is not maintainable as the impugned order is not issued U/s 7A of the Act as claimed by the appellant. The impugned order is not appealable under Sec 7(I) of the Act.

23. It is felt appropriate to decide the question of maintainability as a preliminary issue. The genesis of the dispute is complaints dt.26.11.2019 preferred by the appellants before the 1st respondent. The prayer in the complaint is “ To adjudicate my above claim, revise my monthly pension by making necessary corrections in the above referred pension payment order ”. Since there was delay in taking a final decision by the respondent, the appellants approached the Hon’ble High Court of Kerala in W.P.(C) no.5661/2020. The Hon’ble High Court of Kerala vide order dt.26.02.2020 disposed of the above petition directing the competent authority among respondent no.1 and 2 to take up Exhibits P1-P45 complaints lodged by petitioners and pass appropriate orders on merit within a period of 3 months. The 1st respondent issued notice to the 2nd respondent directing them to clarify whether any provident fund contribution on arrears were remitted after the date of exit in respect of the above pensioners. The notice also directed the 2nd respondent to provide authentication of revised pay, provident fund contribution details and bifurcation of statement to facilitate the revision of pension. The 2nd respondent vide letter dt.24.07.2020, Annexure A5 informed

1st respondent that the pay revision was implemented in two categories and for both categories, the pay arrears with provident fund contribution was paid to the appellants. However in a reply to an application under Right to Information Act, the 2nd respondent informed the appellants that an amount of Rs.34,248/- was remitted by the company towards provident fund during the year 2017. The 1st respondent took all these evidence into account and issued the impugned order. According to the impugned order the 2nd respondent has restricted the pension contribution to the statutory limit of Rs.6500/- Rs.15000/- and therefore it is not mandatory that the 2nd respondent shall remit the contribution with provident fund authorities beyond statutory limit. After a detailed consideration of all the claims the respondent rejected the claim of the appellants. According to the learned Counsel for the appellant, the computation of the amount and revision of pension is taken up by the respondent U/s 7A(1)(b) of the Act. As per Sec 7A(1)(b) the "Central Provident Fund Commissioner or any Additional Central Provident Fund Commissioner, any Deputy Provident Fund Commissioner, any Regional Provident Fund Commissioner or Assistant Provident Fund Commissioner may, by order (b) determine the amount due from any employer under the provisions of this Act, the Scheme, or the Pension Scheme or the Insurance Scheme as the case may be and for any of the aforesaid purposes may conduct such enquiry as he may

deemed necessary “. According to the learned Counsel for the 1st respondent, there was no issue regarding determination of the amount due from the employer as the complaint itself required revision of the monthly pension by making necessary corrections in the pension payment order. The impugned order has elaborately considered the provisions of EPS 1995 and also considered the statutory liability of the 2nd respondent and held that the appellant is not entitled for revision of pension as no contribution is paid by the 2nd respondent and the Provident Fund contribution, was infact, paid along with the pay arrears to the appellants. Since there is no determination of amount due in the impugned order, it cannot be treated as an order issued U/s 7A (1)(b) of the Act. As per Sec 7(I)(1), “Any person aggrieved by a notification issued by the Central Govt, or an order passed by the Central Govt, or any authority under the proviso to Sec 3, or sub Section 4 or Sec 1 or Sec 3 or sub Sec 1 of Sec 7A or Sec 7B (except an order rejecting an application for review referred to in sub Sec 5 thereof), or Sec 7C or Sec 14B may prefer an appeal to a Tribunal against such order “. The Tribunal being a creation of statute cannot go beyond the provisions of the statute. As already pointed out the impugned order will not come within the purview of Sec 7A(1)(b) as claimed by the appellant and there is no provision U/s 7(I) under which the impugned order can be classified to be considered in an appeal U/s 7(I).

24. Considering all the facts, circumstances and pleadings, I am inclined to hold that the present appeals are not maintainable U/s 7(l) of the Act.

Hence the appeals are dismissed as not maintainable.

Sd/-
(V. Vijaya Kumar)
Presiding Officer