

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

FRIDAY, THE 25<sup>TH</sup> DAY OF AUGUST 2023 / 3RD BHADRA, 1945

WP(C) NO. 2958 OF 2020

PETITIONERS:

- 1 PARVATHY G  
AGED 63 YEARS  
D/O.GOPALARAMAN,  
ASSISTANT MANAGER (RETIRED), HEAD OFFICE,  
KERALA STATE BEVERAGES CORPORATION,  
THIRUVANANTHAPURAM, PPO NO.KR/TVM/00074129,  
PF A/C NO.KR/TVM/0010416/029,  
RESIDING AT A/2, KAILASH,  
BELHAVEN GARDENS,  
KOWDIAR P.O.,  
THIRUVANANTHAPURAM-695003.
- 2 SANDHYA S.,  
AGED 60 YEARS  
D/O.B.RAVINDRANATHAN,  
ASSISTANT GRADE 1 (RETIRED), HEAD OFFICE,  
KERALA STATE BEVERAGES CORPORATION,  
THIRUVANANTHAPURAM, PPO NO.KR/TVM/00070399,  
PF A/C NO.KR/TVM/10416/21,  
RESIDING AT SAPARYA, ERA-179, THOTTAM,  
MANACAUD P.O., THIRUVANANTHAPURAM,  
PIN-695009.
- 3 SUDHA K.,  
AGED 63 YEARS  
D/O.KUNJIRAMAN,  
HELPER (RETIRED) FL1 SHOP, POTHANIKKAD,  
KERALA STATE BEVERAGES CORPORATION,  
MUVATTUPUZHA, PPO NO.KR/KNR/00060498,  
PF A/C NO.KR/TVM/10416/000/0000126,  
RESIDING AT SUDHALAYAM, PALLIKUNNU,  
KANNUR P.O., PIN-670004.
- 4 MADHUSOODHANAN R.,  
AGED 63 YEARS  
S/O.RAMAKRISHNAN S.,  
TYPIST GR.1 (RETIRED), WARE HOUSE,  
KERALA STATE BEVERAGES CORPORATION, ATTINGAL,  
PPO NO.KR/TVM/00074397,  
PF A/C NO.KR/TVM/0010416/000/0000258,  
RESIDING AT M.P.COTTAGE, KATTUCHANTHA,  
AYILAM P.O., PIN-695103.

BY ADVS.

C.S.AJITH PRAKASH

T.K.DEVARAJAN  
T.N.SREEKALA  
PAUL C THOMAS  
M.B.SOORI  
FRANKLIN ARACKAL

**RESPONDENTS:**

- 1 UNION OF INDIA  
REPRESENTED BY THE SECRETARY TO GOVERNMENT OF  
INDIA,  
MINISTRY OF LABOUR AND DEPARTMENT OF  
EMPLOYMENT, NEW DELHI-110001.
- 2 REGIONAL PROVIDENT FUND COMMISSIONER,  
EMPLOYEES PROVIDENT FUND ORGANISATION,  
BHAVISHYA NIDHI BHAVAN, PATTAM PALACE,  
THIRUVANANTHAPURAM-695004.
- 3 ASSISTANT PROVIDENT FUND COMMISSIONER  
(PENSION),  
SUB REGIONAL OFFICE,  
EMPLOYEES PROVIDENT FUND ORGANISATION (EPFO),  
P.B.NO.117, FORT BUILDING, V.K.COMPLEX,  
KANNUR-670001.
- 4 KERALA STATE BEVERAGES CORPORATION LIMITED  
(KSBC),  
(GOVERNMENT OF KERALA UNDERTAKING),  
REPRESENTED BY ITS MANAGING DIRECTOR,  
BEVCO TOWERS, NEAR MUSCOT HOTEL,  
VIKAS BHAVAN P.O.,  
THIRUVANANTHAPURAM - 695033.

BY ADV SRI.S.VAIDYANATHAN, CGC  
SRI. S. MANU - DSGI  
SMT. NITA N.S. - SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 25.08.2023, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:

## **JUDGMENT**

This writ petition is filed seeking the following reliefs:-

"i) issue a writ in the nature of mandamus or any other appropriate writ, order or direction commanding the 2, 3 and 4 respondent to collect pension contribution to the EPF pension scheme of the petitioners on the basis of the actual salary drawn by them, in accordance with Proviso to Clause 11(3) of the Employees Provident Fund Pension Scheme, 1995, from the date of joining the pension scheme and also to direct the 4<sup>th</sup> respondents to furnish joint application expressing the consent and direct the 2nd respondent to pay pension and its arrears on the basis of the actual salary drawn by the petitioners;

ii) declare that the petitioners are entitled to get pension contribution to the EPF pension scheme of the petitioners on the basis of the actual salary drawn by them, in accordance with Clause 11(3) of the Employees Provident Fund Pension Scheme, 1995, from the date of joining the pension scheme."

2. The petitioners are retired employees of the 4<sup>th</sup> respondent establishment. They are subscribers of Employees' Provident Fund. According to the

petitioners, they are entitled for higher pension under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 as per the option exercised by them. It is their case that the pension has to be paid without limiting the amount to the maximum pensionable salary prescribed in paragraph 11(3) of the Employees' Pension Scheme, 1995.

3. Smt.Nita N.S., the learned Standing Counsel for the Employees' Provident Fund Organisation submits that the question raised in the writ petition is now settled by the Hon'ble Supreme Court in **EPF Organisation and Another v. Sunil Kumar B and Others** [2022 SCC online SC 1521] and that the grievance of the petitioners raised in this writ petition will be considered in accordance with the directions therein.

In the light of the said submission, this writ petition is disposed of directing the competent among

the respondents to re-consider the claims put forward by the petitioners in the light of the dictum laid down by the Hon'ble Supreme Court in the decision cited above within a period of three months from the date of receipt of a copy of this judgment.

**Sd/-**

**MURALI PURUSHOTHAMAN  
JUDGE**

SPR

**APPENDIX**

**PETITIONERS EXHIBITS:-**

EXHIBIT P1	A TRUE COPY OF THE PENSION PAYMENT ORDER NO.KR/TVM/00074129 OF THE 1ST PETITIONER ISSUED BY THE 2ND RESPONDENT.
EXHIBIT P2	A TRUE COPY OF THE PENSION PAYMENT ORDER NO.KR/TVM/00070399 OF THE 2ND PETITIONER ISSUED BY THE 2ND RESPONDENT.
EXHIBIT P3	A TRUE COPY OF THE PENSION PAYMENT ORDER NO.KR/KNR/00060498 OF THE 3RD PETITIONER ISSUED BY THE 3RD RESPONDENT.
EXHIBIT P4	A TRUE COPY OF THE PENSION PAYMENT ORDER NO.KR/TVM/00074397 OF THE 4TH PETITIONER ISSUED BY THE 2ND RESPONDENT.
EXHIBIT P5	A TRUE COPY OF THE JUDGMENT DATED 4.11.2011 IN W.P.(C) NO.6643/2007.
EXHIBIT P6	A TRUE COPY OF THE JUDGMENT IN W.A.NO.568/2012 & OTHER CONNECTED CASES DATED 5.3.2013.
EXHIBIT P7	A TRUE COPY OF THE JUDGMENT OF THE APEX COURT IN S.L.P.NO.7074/2014 & OTHER CONNECTED CASES DATED 31.03.2016.
EXHIBIT P8	A TRUE COPY OF THE JUDGMENT IN W.P.(C)NO.12999/2014 DATED 22.09.2014.
EXHIBIT P9	A TRUE COPY OF THE JUDGMENT DATED 5.11.2014 IN W.A.NO.1502/14.
EXHIBIT P10	A TRUE COPY OF THE JUDGMENT IN W.P.(C) NO.35038/2016 DATED 12.10.2018.
EXHIBIT P11	A TRUE COPY OF THE CASE STATUS INDICATING ABOVE FACT, AS DOWNLOADED FROM THE WEBSITE OF THE HON'BLE SUPREME COURT.

**RESPONDENTS EXHIBITS: NIL.**