

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

THURSDAY, THE 8TH DAY OF JULY 2021 / 17TH ASHADHA, 1943

WP (C) NO. 11999 OF 2021

PETITIONERS:

- 1 RAJAN E.G., AGED 73 YEARS
S/O.EMANUEL, RESIDING AT 4B, BEACON GREENLEAVES,
KANJIRAPPARA P.O., SASTHAMANGALAM VILLAGE,
THIRUVANANTHAPURAM TALUK AND DISTRICT, PIN-695 030,
(RETIRED SR.SUPERINTENDENT (NC) WITH PPO NO.30362).
- 2 M.KESAVAN NAIR, AGED 71 YEARS
S/O.K.C.MADHAVAN NAIR, ROOM NO.307, SP TOURIST HOME,
MELE THAMPANOR, THIRUVANANTHAPURAM-695 001, (RETIRED
SR.SUPERINTENDENT WITH PPO NO.33390).

BY ADV SRI.P.C.HARIDAS

RESPONDENTS:

- 1 KERALA STATE ELECTRICITY BOARD LTD.
VAIDUTHIBHAVAN, PATTOM, THIRUVANANTHAPURAM-695 004,
REPRESENTED BY ITS SECRETARY.
- 2 SECRETARY (ADMINISTRATION),
KERALA STATE ELECTRICITY BOARD LTD., VAIDUTHIBHAVAN,
PATTOM, THIRUVANANTHAPURAM-695 004.
- 3 CHIEF ENGINEER (HRM)
KERALA STATE ELECTRICITY BOARD LTD., VAIDUTHIBHAVAN,
PATTOM, THIRUVANANTHAPURAM-695 004.

BY ADV ASOK M.CHERIAN
SRI. N.SATHEESH - SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08.07.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

"CR"

JUDGMENT

The petitioners have, through this writ petition, brought to the notice of this Court a compelling issue with respect to the payment of pension in the services of the Kerala State Electricity Board; alleging that, under the aegis of a "Vaccine Challenge" coalesced to the Chief Minister's Relief Fund, certain portion of their pension is being now withheld.

2. The petitioners specifically allege that they had not agreed to any contribution to be made to the afore "Challenge"; nor have they consented that their pension be reduced in any manner for such purpose. They, therefore, pray that Ext.P1 proceedings of the KSEB, which allegedly sanctions forcible deduction of amounts of pension of retired employees and its remittance into the Chief Minister's Relief Fund, be set aside and KSEB be directed to pay them their eligible withheld pension immediately.

3. The afore submission of Sri.P.C.Haridas - the learned counsel for the petitioners, was met by Sri.N.Satheesh - the learned standing counsel for the KSEB, asserting that Ext.P1 order is not intended to force - contribute any amount from

any section of the employees or former employees, except with their consent. He pointed out that Ext.P1 luculently records that it was issued solely on the basis of the specific agreement of the Association of Pensioners, that their members are willing to contribute one day's pension to the Chief Minister's Relief Fund under the "Vaccine Challenge". He, therefore, prayed that Ext.P1 be not set aside; however, adding that if the petitioners are not agreeable to have their contribution retained by the KSEB, then the said amount will be returned to them without any delay.

4. Though, in view of the afore submissions of Sri.N.Satheesh, the controversy in this case will now rest, there is a larger question as to if a proceeding like Ext.P1 would have been issued by the KSEB at all.

5. Normally, any contribution to the Chief Minister's Relief Fund or such other can be effected only with full volition of the contributor and cannot be a matter of compulsion or forced compliance, unless there is a valid law which sanctions such. The KSEB or the State have no case – even whisperingly – that the petitioners or other employees – serving or retired – are under any legally sanctioned obligation to suffer any remittance under the "Vaccine

Challenge". However, Ext.P1, nevertheless mandates that certain deductions will be made from the pension of the retired employees towards the Relief Fund, but without conceding to any provision herein for such deduction being done only with the prior consent of the retiree.

6. Perspicuously therefore, Ext.P1 cannot, in my firm view, deserve curial imprimatur; and since the KSEB has unequivocally agreed to refund the amounts deducted from the Pension of the petitioners, I proceed to order this writ petition with the directions *ut infra*.

In the afore circumstances, I allow this writ petition, recording the afore submissions of Sri.N.Satheesh; with a consequential direction to the respondents to refund the amounts deducted from the pension of the petitioners within a period of two weeks from the date of receipt of a copy of this judgment, with a further declaration that no such amount shall be deducted, except if they give specific consent for the same in writing.

Sd/- DEVAN RAMACHANDRAN

JUDGE

stu

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APPENDIX OF WP(C) 11999/2021

PETITIONER ANNEXURE

Exhibit P1 TRUE COPY OF THE CIRCULAR DATED 14.05.2021
ISSUED BY THE 2ND RESPONDENT.

Exhibit P2 TRUE COPY OF THE REPRESENTATION SUBMITTED
BY THE 1ST PETITIONER.