

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

WEDNESDAY, THE 03RD DAY OF JUNE 2020 / 13TH JYAISHTA, 1942

WP(C).No.10910 OF 2020(K)

PETITIONER/S:

JESSE NEIL, AGED 6 YEARS, (MINOR),
S/O. NEIL VARGHESE, FLAT NO.GG ASSET DEW,
MANNOR ROAD, MARAD, COCHIN - 682 017,
REPRESENTED THROUGH HER GUARDIAN / MOTHER
CATHERINE MATHEW, FLAT NO.GG ASSET DEW,
MANNOR ROAD, MARAD, COCHIN - 682 017.

BY ADV. SRI.M.SASINDRAN

RESPONDENT/S:

THE EMPLOYEES PROVIDENT ORGANISATION
REPRESENTED BY THE CENTRAL PROVIDENT FUND
COMMISSIONER, E.P.F.O. HEAD OFFICE,
NEW DELHI - 110 001.

OTHER PRESENT:

SRI S PRASANTH SC SRI K ARJUN VENUGOPAL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
03.06.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 3rd day of June 2020

The extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India, for issuance a writ in the nature of mandamus for a direction to the respondent; namely Neil Varghese, an employee covered under the Employees Provident Fund Organisation, represented by the Central Provident Fund Commissioner, E.P.F.O, Head Office, New Delhi, for taking appropriate action for disbursing the employees provident fund amount due to the petitioner's deceased father. According to the petitioner, the petitioner's father; Neil Varghese is stated to be an employee of the Shell Companies India Limited during

the period 07.02.2011 to 15.02.2016. He was working as a Specialist - Manager – Direct Taxes.

2. petitioner's father was also employed in the subsidiary company; i.e; the Shell India Markets Private Limited, Chennai, as evident from the relieving letter dated 25.02.2016, Ext.P1. Since there was a matrimonial dispute, the petitioner's father separated in pursuance to the judgment dated 18.08.2016 rendered in O.P.No.1761 of 2014 by the Family Court, Ernakulam, Ext.P2. Hence, the petitioner was under the custody of his mother; the natural guardian. It is submitted that his father expired on 31.08.2017, which is evident from Ext.P3.

3. The learned counsel appearing on

behalf of the petitioner Sri.M.Sasindran along with Sri.Syam Kumar submits that the Company is covered by the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for brevity, 'EPF & MP Act') and therefore his father was also covered by the pension scheme, but so far, nothing has been heard. Ext.P4 is the legal heir certificate issued by the Tahsildar, Kanayannoor Taluk. In this regard, the petitioner filed Ext.P5 representation dated 28.11.2019 before the respondent for disbursing the pensionary benefits due to the petitioner's father, but no action has been taken.

4. Issue notice before admission.
Sri.S.Prasath along with Sri.K.Arjun

Venugopal, learned counsel appearing on behalf of the respondent submits that there would not be any difficulty in issuing directions to the respondent to consider and dispose of Ext.P5 representation. But in the absence of the particulars like 'Establishment Code' the Central Provident Fund Commissioner would not be in a position to vindicate the grievance of the petitioner. The writ petition is also not maintainable in the absence of the impleadment of the appropriate employer. Regional Provident Fund Commissioner like Chennai, Karnataka or Kerala have not been impleaded.

5. Having heard both the counsel for the parties, I am of the considered

opinion that the writ petition can be disposed of issuing directions to the 1st respondent to take a call on the representation and any additional information providing the particulars like 'Establishment Code' and correct address of the employer, with whom the deceased father of the petitioner was working, so that the respondent can take a decision or forward the representation to the concerned Regional Provident Fund Commissioner for vindication of the grievance of the petitioner. After receipt of the additional information to be supplied by the petitioner, within a period of one month from today, the decision would be taken with another two

months thereafter.

This writ petition is disposed of
accordingly.

Sd/-

AMIT RAWAL
JUDGE

SB/04/06/2020

APPENDIX

PETITIONER'S/S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF THE RELIEVING LETTER
ISSUED DATED 25.02.2016.
- EXHIBIT P2 TRUE COPY OF THE JUDGMENT DATED
18.08.2016 IN O.P. NO.1761/2014.
- EXHIBIT P3 TRUE COPY OF THE CERTIFICATE ISSUED
BY THE OFFICE OF THE REGISTRAR OF
BIRTHS AND DEATH, COCHIN
CORPORATION.
- EXHIBIT P4 TRUE COPY OF THE LEGAL HEIR
CERTIFICATE ISSUED BY THE TAHSILDAR,
KANAYANNUR TALUK.
- EXHIBIT P5 TRUE COPY OF THE REPRESENTATION
DATED 28.11.2019.