



2025:KER:30317

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

TUESDAY, THE 8TH DAY OF APRIL 2025 / 18TH CHAITHRA, 1947

WP(C) NO.14394 OF 2025

PETITIONER:

**INDU MENON C., AGED 57 YEARS
W/O. LATE. VIJAYAKUMAR K.G, RESIDING AT NANDANAM,
WEST KADUNGALLOOR, ALUVA, ERNAKULAM, PIN - 683110**

**BY ADVS.
R.SANJITH
C.S.SINDHU KRISHNAH
NAMITHA SUSAN MARCOSE
HRISHIKA MARIYA JOSE**

RESPONDENTS:

- 1 UNION OF INDIA
 REPRESENTED BY THE SECRETARY,
 MINISTRY OF LABOUR AND EMPLOYMENT,
 DEPARTMENT OF EMPLOYMENT, NEW DELHI, PIN - 110001**
- 2 THE EMPLOYEES PROVIDENT FUND ORGANISATION
 REPRESENTED BY THE CHIEF PROVIDENT COMMISSIONER,
 BHAVISHYA NIDHI BHAVAN, 14, BHIKAJI CAMA PALACE,
 NEW DELHI, PIN - 110066**
- 3 REGIONAL PROVIDENT FUND COMMISSIONER
 THE EMPLOYEES PROVIDENT FUND ORGANISATION,
 KALLOOR, ERNAKULAM, PIN - 682017**



2025:KER:30317

**4 THE FERTILISERS AND CHEMICAL TRAVANCORE LIMITED
UDYOGAMANDAL, ERNAKULAM, REPRESENTED BY CHAIRMAN
AND MANAGING DIRECTOR, PIN - 683501**

**BY ADVS.SAJEEV KUMAR K.GOPAL, SC
M.GOPIKRISHNAN NAMBIAR, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08.04.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**



2025:KER:30317

JUDGMENT

Petitioner is the wife of late K.G.Vijayakumar, who retired from the service of the 4th respondent on 03.07.2021. The 4th respondent is an establishment covered under the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the Employees' Provident Fund Scheme, 1952 [for short, 'EPF Scheme, 1995'] and the Employees' Pension Scheme, 1995.

2. The petitioner states that, her husband, while in service, exercised option under proviso to paragraph 11(3) of the EPF Scheme, 1995 and was contributing 8.33% of his actual salary to the pension fund from 16/11/1995 to 03/07/2021 (the date on which he attained the age of superannuation).

3. In the year 2014, the EPF Scheme, 1995 was amended and paragraph 11(4) was inserted. However, the husband of the petitioner did not exercise the



2025:KER:30317

option under the amended provision. He expired on 08.09.2022. Consequent to the death of Sri.Vijayakumar, the petitioner became eligible for beneficiary/widow pension under paragraph 15 of the EPF Scheme. Ext.P9 is the pension payment order issued to late Sri.K.G.Vijayakumar. The petitioner states that she is receiving only Rs.1,983/- as widow pension from 09.09.2022.

4. According to the petitioner, if a person has not exercised option as per paragraph 11(4) within the period provided therein, it is deemed that the member has not opted for contribution over wage ceiling and the contributions to the Pension Fund made over the wage ceiling in respect of the member shall be diverted to the Provident Fund account of the member along with interest as declared under the EPF Scheme from time to time. The petitioner states that respondents 2 and 3 have not



2025:KER:30317

complied with 4th Proviso to Para 11(4) of the EPF Scheme, 1995. It is contended that respondents 2 and 3 are withholding the amounts due to the petitioner under the 4th proviso to paragraph 11(4) of the EPF Scheme, 1995. Accordingly, the petitioner has filed this writ petition for the following reliefs:

“(i) To issue a writ of mandamus and command the respondents 2 and 3 or such other appropriate authorities under the Act and Scheme, 1995 to comply with the 4th proviso to Para 11(4) of the Scheme, 1995 in its letter and spirit and divert the contribution to the pension fund made over the wage ceiling in respect of her husband along with interest as declared under the Employees' Provident Funds Scheme from time to time within a time frame to be fixed by this Honourable Court.

(ii) To issue a writ of mandamus and command the respondents 2 and 3 or such other appropriate authorities under the Act and Scheme, 1995 to pay interest @ 12% on the amount due to the petitioner under the 4th proviso to Para 11(4) of the Scheme, 1995



2025:KER:30317

*from 03/07/2021 to the date of realization,
within a time frame to be fixed by this
Honourable Court."*

5. Heard Sri.R.Sanjith, learned Counsel for the petitioner, Sri.Sajeev Kumar K.Gopal, learned Standing Counsel for the EPFO, learned Central Government Counsel and Sri.M.Gopikrishnan Nambiar, learned Counsel for the 4th respondent.

6. The petitioner's entitlement to the amounts due under the 4th proviso to paragraph 11(4) of the EPF Scheme, 1995 must first be considered by the 3rd respondent.

7. There will be a direction to the 3rd respondent to consider the entitlement of the petitioner for refund of the contribution as contemplated under the 4th proviso to Rule 11(4) of the EPF Scheme, 1995 and take a decision with notice to the petitioner as expeditiously as possible, at



2025:KER:30317

any rate, within a period of two months from the date of receipt of a certified copy of this judgment.

The writ petition is disposed of.

Sd/ -

MURALI PURUSHOTHAMAN
JUDGE

sp/08/04/2025



2025:KER:30317

APPENDIX OF WP(C) 14394/2025

PETITIONER EXHIBITS

- | | |
|-------------------|--|
| Exhibit P1 | TRUE COPY OF THE PENSION PAYMENT ORDER
ISSUED TO LATE. K.G. VIJAYAKUMAR |
| Exhibit P2 | TRUE COPY OF HIS DEATH CERTIFICATE |