



'C.R.'

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

THURSDAY, THE 5TH DAY OF SEPTEMBER 2024 / 14TH BHADRA, 1946WP(C) NO. 23639 OF 2017PETITIONERS:

- 1 MRS. FAREEDA SUKHA RAFIQ
W/O. FAHD KORAMBAYIL, AGED 29 YEARS, RESIDING AT
KORAMBAYIL HOUSE, HILLTOP, PANDIKKAD ROAD,
MANJERI-676 122.
- 2 DR. SHABNAM JAMEELA RAFIQ
W/O.DR.ARAFATH MUHAMMED HARIS, AGE 27, RESIDING
AT 40/1140, T.D.ROAD, ERNAKULAM.
- 3 MRS. AMEENA RAFIQ
W/O.DR.RAFIQ MOHAMED, AGED 53 YEARS, RESIDING AT
40/1140 T.D.ROAD, ERNAKULAM, COCHIN -682 011.

BY ADVS.
SRI.K.ANAND (SR.)
SRI.JOSEPH SEBASTIAN PARACKAL
SMT.LATHA ANAND
SRI.K.R.PRAMOTH KUMAR
SRI.K.N.RAVINDRAN
SRI.S.VISHNU ARIKKATTIL

RESPONDENTS:

- 1 UNION OF INDIA
REPRESENTED BY THE SECRETARY, MINISTRY OF
COMMUNICATIONS AND INFORMATION TECHNOLOGY,
LODHI ROAD, NEW DELHI -110 003.



- 2 THE SENIOR POST MASTER
ERNAKULAM HEAD POST OFFICE, HOSPITAL ROAD,
ERNAKULAM-682 011.

- 3 THE POST MASTER GENERAL
POST MASTER GENERAL OFFICE, ERNAKULAM NORTH,
ERNAKULAM, PIN-682 018.

BY ADV SRI.JAISHANKAR V. NAIR, CGC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05.09.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



JUDGMENT

The 3rd petitioner is the mother of the 1st and 2nd petitioners. The dispute in this writ petition is with regard to the interest accrued in three separate PPF accounts opened with the 2nd respondent herein by the petitioners.

2. The short facts necessary for the disposal of this writ petition are as under:

The 3rd petitioner started a PPF account No.821 with the 2nd respondent Post Office. Since the 1st and 2nd petitioners were minors during the period when account No.821 was started, and since the 3rd petitioner also wanted to have separate savings accounts in the name of her children, she opened separate PPF accounts with the 2nd respondent Post Office in the name of 1st and 2nd petitioners as Account Nos.822 and 823. Remittances were being made in the afore PPF accounts. It is straight away to be noticed that the 1st petitioner attained majority on 24.12.2005 and the 2nd petitioner attained majority on 26.09.2007.

3. The amounts lying in the PPF accounts were not



withdrawn even after attaining majority, by the 1st and 2nd petitioners. They continued with the PPF accounts even thereafter.

4. However, during the year 2017, the matters took a 'u' turn. The 2nd respondent issued Ext.P4 communication dated 29.06.2017, addressed to the 3rd petitioner herein informing her that, since the deposit made in the afore three accounts, taken together, would exceed the limit prescribed by the various statutory provisions/schemes, the entire interest of Rs.6,80,000/- have to be forfeited by the Post Office. On the very next day, an amount of Rs.6,87,021/- representing the accrued interest lying in the three PPF accounts put together, was appropriated by the 2nd respondent.

5. It is in the said situation that the captioned writ petition has been filed by the petitioners seeking a direction to re-credit the amount of Rs.6,87,021/- to the accounts of the petitioners with interest from the date of debit till the date of actual credit.



6. A detailed statement dated 17.08.2017 has been placed on record by respondents 1 to 3, essentially referring to the details of deposits made in the three separate accounts afore mentioned, the factum of the petitioners signing the application while opening the PPF accounts undertaking to abide by the Rules framed by the Government, the provisions of the PPF Act and Rules, and the provisions of the Post Office Savings Bank Manual, etc.

7. I have heard Sri.K.Anand, the learned Senior counsel for the petitioners, as also, Ms.Cristy Theresa Suresh, learned Advocate, appearing on behalf of Sri.Jaishankar V. Nair, the learned Central Government Counsel, appearing for the respondents.

8. Sri.K.Anand, the learned Senior counsel would submit as under:

- (i) The deposits were made by the petitioners with specific reference to the provisions under the PPF Scheme, 1968. He would refer to Rule 2(a) of the Scheme to point out that the PPF account is



covered by the said Scheme. He would also submit that under Rule 3(1) of the Scheme, an individual is permitted to operate or start an account on his own name as well as in the name of his minor children in his status as a guardian.

- (ii) He would refer to the provisions of Section 4 of the PPF Act to contend that the Act also recognises the right of an individual to start an individual account as well as a representative account in the name of his minor children.
- (iii) It is also pointed out with reference to paragraph 47 of the judgment of the Apex Court in **Secretary Irrigation Department, Government of Orissa and Others v. G.C. Roy [AIR 1992 SC 732]** that, insofar as the amounts were being held by the respondents herein, interest was liable to be paid to the petitioners.
- (iv) He would also point out that the petitioners had not withdrawn the deposits or closed the accounts even



during 2017, i.e., after the 1st and 2nd petitioners had attained majority and therefore, the respondents are not justified in initiating the steps culminating in Ext.P4.

- (v) He would also submit that, going by the provisions of the Scheme and Act afore referred, the three accounts in the name of the petitioners should be treated separately and not collectively, so as to apply the limit prescribed by various schemes.

9. Per contra, Ms.Cristy Theresa Suresh, learned Advocate, appearing on behalf of Sri.Jaishankar V. Nair, the learned Central Government Counsel, appearing for the respondents, points out with vehemence that:

- (i) Under the provisions of Rule 6(5) of the Post Office Savings Account Rules, 1981 interest is not to be allowed on any sum in excess of the "maximum balance" specified under Column 3 of the table.
- (ii) She would also invite the attention of this Court to the provisions of Rule 3(1) of the Scheme to



contend that the limit of deposit as regards an individual in his self-account and accounts opened by him on behalf of his minor children of whom he is the guardian, is to be taken together, collectively.

(iii) In such circumstances, she points out that the steps against the petitioners culminating in Ext.P4 are perfectly justified.

10. I have considered the rival submissions as well as the connected records.

11. The admitted facts are that the petitioners had started three separate PPF accounts. At the time of starting the PPF accounts, as regards the petitioners 1 and 2, they were minors. They attained majority during 2005 and 2007. They have not closed the accounts or withdrawn the amounts even after attaining majority. The 3rd petitioner was making deposits in the individual accounts in the name of petitioners 1 and 2, when they were minors. After attaining majority also, the petitioners continued to make deposits. The balance interest accrued on the date of issue of Ext.P4 has led to the



present controversy.

12. The stand of the 2nd respondent is to the effect that there is a limit prescribed by the Scheme as well as the Rules for making deposits in the PPF accounts. A reading of Ext.P4 would show that a maximum limit has been prescribed every year by the Scheme. The said maximum limit stood revised every year. It is the case of the respondents that if the three accounts are taken together, the deposits made would exceed the limit prescribed. On the other hand, it is the case of the petitioners that the three separate accounts ought to be taken independently and not cumulatively in which event, the limit would not get exceeded. It is the correctness of the above rival submissions that is to be taken into consideration and decided in the present writ petition.

13. The deposits made are admittedly under the PPF Act. The provisions of the PPF Act, 1968, under Section 4, permit an individual on his own behalf or on behalf of the minor to start an account. The provisions of Section 4 specifically provide that even as regards the minor, a separate



account can be started by a major in his status as a "guardian".

14. The PPF Scheme, 1968, also speaks about the starting of an account under Rule 3(1) on behalf of a major as well as on behalf of a minor by a major as a guardian. The provisions of Rule 3(1) of the Scheme, it is true, state that the accounts started by a major in his own account as well as on behalf of the minor, are to be combined. It is this provision, that is essentially relied upon by the learned counsel for the respondents.

15. However, it is to be noticed that the 2nd respondent has taken steps against the petitioners only in the year 2017. As already noticed, the petitioners 1 and 2 have already attained majority during 2005 and 2007. They were continuing with the PPF accounts and making periodical deposits, as afore noticed. So much so, in my considered opinion, the reference to the provisions under Rule 3(1) of the Scheme, relied on by the learned counsel for the respondents would not be apposite.



16. On the other hand, the provisions of the Post Office Savings Accounts Rules, 1981, speak about starting a "savings account". Even as regards a savings account, the same can be started on behalf of a major as well as on behalf of a minor. It is true that the said Rules only apply as regards the savings account. However, a reference to the said Rules also gives an idea as regards the nature of opening an account with the Post Offices.

17. Furthermore, it is to be noticed that the Central Government had been promoting the starting of various accounts in the name of minors and that is why such beneficial schemes were being introduced by the Central Government like the PPF Scheme, wherein separate accounts can be opened by a major in the name of his/her minor children. In such circumstances, the restrictive interpretation being adopted to the application of the limit prescribed with reference to yearly deposits by clubbing the accounts together is incorrect especially when it is admitted that the children have already attained majority at least a decade



earlier to the issue of Ext.P4.

In such circumstances, I find no reason to sustain the proceedings at Ext.P4. The same is hereby quashed. There will be a direction to the respondents herein to credit the amount of Rs.6,87,021/- (Rupees Six lakhs eighty seven thousand and twenty one only) to the accounts of the petitioners herein with interest, as applicable under the PPF Act.

Sd/-

HARISANKAR V. MENON
JUDGE

Skk



APPENDIX OF WP(C) NO.23639 OF 2017

PETITIONERS' EXHIBITS:

- EXHIBIT P1 TRUE COPY OF PASS BOOK IN RESPECT OF
ACCOUNT NO.822 OF THE 1ST PETITIONER.
- EXHIBIT P2 TRUE COPY OF PASS BOOK IN RESPECT OF
ACCOUNT NO.823 OF THE 2ND PETITIONER.
- EXHIBIT P3 TRUE COPY OF PASS BOOK IN RESPECT OF
ACCOUNT NO.821 OF THE 3RD PETITIONER.
- EXHIBIT P4 TRUE COPY OF COMMUNICATION DATED
29.06.2017 FROM THE 2ND RESPONDENT TO
THE 3RD PETITIONER.

RESPONDENTS' EXHIBITS: NIL