

**GOVERNMENT OF KERALA****Abstract**

Tourism Department - Judgment dated 23.07.2024 of the Hon'ble High Court in W.P(C)No.4526/2014 filed by Smt. Anie Philip and others - Complied with- Orders Issued

TOURISM (B) DEPARTMENT

G.O.(Rt)No.308/2025/TSM Dated,Thiruvananthapuram, 27-05-2025

Read 1. Circular No. 71/2011/FIN dated 20/10/2011.

2. G.O (Ms) No. 240/2013/TSM dated 21.08.2013.

3. G.O (Ms) No. 9/2018/TSM dated 26.07.2018.

4. Judgment dated 23.07.2024 of the Hon'ble High Court in W.P(C)No.4526/2014 filed by Smt. Anie Philip and others.

5. Representation dated 18/09/2024 from the General Secretary, All Kerala Food Craft Institute Employees Union.

6. Letter No 861/2024/FCI dated 01.10.2024 from the Director, Food Craft Institute.

ORDER

Smt. Anie Philip and Others, Employees in Food Craft Institute Society, Kerala, had filed W.P(C)No.4526/2014 before the Hon'ble High Court of Kerala, seeking directions to the respondents to remit provident fund contribution at the rate of 12% of the salary and the allowance of the employees and to contribute towards EPF pension scheme 1995 on the basis of actual salary drawn.

2. As per Judgment dated 23.07.2024, the Hon'ble High Court has directed the 1st respondent (Secretary, Tourism Department) to consider the representation submitted by the petitioners within a period of two months from the date of receipt of copy of the stated judgment and to

pass appropriate orders, on the contentions raised in such representation, in the light of Exts. R6(b) & R6(c) within a further period of three months from the date of receipt of a copy of such representation along with the copy of judgment. It was also stated in the Judgement that while considering such representation, the impugned Ext P8 & Ext P9 orders shall not stand in the way as already different treatment is given to the employees of other undertakings of the Government as per Exts R6(b) & R6(c).

3. The petitioners in their representation read as 5th paper above have requested to continue with the remittance of employees Provident Fund contribution under EPF scheme at the rate of 12% of salary and allowances of employees without any ceiling limit.

4. The Director, FCI, in his letter read as 6th paper above has reported that the EPF contributions of the Employer has been limited as per the 9th & 10th pay revision order read as 2nd and 3rd papers above respectively.

5. Government have examined the matter in detail on the basis of the report furnished by the Director, Food Craft Institute, relevant Government orders, existing rules and related judgments of various Courts including Apex Court in the matter. The Food Craft Institute is a grant in aid institute under Government of Kerala and is not comparable with income generating institutions like KTDC, ANERT etc. Moreover in W.P.(C) No. 498/2022, the Hon'ble Supreme Court held that the requirement of the members to contribute @ of 1.16% of their salary to the extent such salary exceeds Rs. 15000/- per month as an additional contribution under the amended scheme is held to be ultra vires the provisions of the 1952 Act. As per Section 6 of the Employees Provident Funds and Miscellaneous Provisions Act 1952, the contribution which

shall be paid by the employer to the fund shall be 10% of the Basic Wages, Dearness Allowance and Retaining Allowance if any. The employees contribution shall be equal to the contribution payable by the employer in respect of him and if he desires, he can pay to the fund an amount exceeding the employers contribution subject to the condition that the employer shall not be under an obligation to pay any contribution over and above his contribution payable under the Section. As per the first proviso to this Section, the contribution which shall be paid by the employer of any establishment or class of establishments notified by the Central Government shall be 12% of the Basic Wages, Dearness Allowance and Retaining Allowance if any. Hence it can be concluded that there is no statutory obligation on the part of the employer to pay the contribution above the rate of 12% to the EPF as provided in the Section 6 of the Employees Provident Funds and Miscellaneous Provisions Act 1952

6. Thus, in light of the existing Government orders and the judgments of the various Courts including Apex Courts in various similar cases, the present request of General Secretary, All Kerala Food Craft Institute Employees Union to continue with the remittance of employees Provident Fund contribution under EPF scheme at the rate of 12% of salary and allowances of employees without any ceiling limit deserves no merit and is hereby declined.

7. The Judgment dated 23.07.2024 of the Hon'ble High Court in W.P(C)No.4526/2014 filed by Smt. Anie Philip and others. is complied with accordingly.

(By order of the Governor)
K BIJU I A S
SECRETARY

To:

General Secretary, All Kerala Food Craft Institute Employees Union

(through the Director, FCI)

The Advocate General, Ernakulam (with C/L)

The Director, FCI, Thiruvananthapuram.

The Principal Accountant General (Audit I/II), Thiruvananthapuram

The Information and Public Relations department

Stock file/Office copy

Forwarded /By order

Section Officer

Copy to:

PA to Secretary, Tourism