

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

MONDAY, THE 9TH DAY OF MAY 2022 / 19TH VAISAKHA, 1944

WP(C) NO. 12838 OF 2021

PETITIONER/S:

- 1 SAJU A R, AGED 39 YEARS
S/O.RAMAN, WORKING AS OPERATOR B, BHARAT PETROLEUM CORPORATION LIMITED, KOCHI REFINERY, AMBALAMUGAL -682302, RESIDING AT ANDALAMURI, THEKUMBAGOM, THRIPIUNITHURA, ERNAKULAM-682301.
- 2 JOMET K. JOY, AGED 35 YEARS
S/O. JOY, WORKING AS GENERAL CRAFTSMEN (ELECTRICAL) GRADE-VI, BHARAT PETROLEUM CORPORATION LIMITED, KOCHI REFINERY, AMBALAMUGAL -682302, PERMANENTLY RESIDING AT KANNANKARA (H), VALARA P.O., 12TH MILE, IDUKKI-685561.
- 3 SUNILKUMAR S., AGED 42 YEARS
S/O. SUKUMARAN, WORKING AS OPERATOR-B, BHARAT PETROLEUM CORPORATION LIMITED, KOCHI REFINERY, AMBALAMUGAL -682302, RESIDING AT CHANGANIKODATH SAPTHAGIRI, THOTTAKKATUKARA P.O., ALUVA-683108.
- 4 ANWAR T.A., AGED 40 YEARS
S/O. T.K.ABDUL REHMAN, OPERATOR GRADE B, BHARAT PETROLEUM CORPORATION LIMITED, KOCHI REFINERY, AMBALAMUGAL -682302, RESIDING AT 302, CONFIDENT BELLATRIX III, MARKET ROAD, THRIPIUNITHURA-682031.
- 5 THE COCHIN REFINERIES WORKERS ASSOCIATION, BHARAT PETROLEUM CORPORATION LIMITED, KOCHI REFINERY, AMBALAMUGAL -682302, REPRESENTED BY ITS GENERAL SECRETARY, AJI M.G., S/O. GANGADHARAN, AGED 45 YEARS, WORKING AS MANUFACTURING DEPARTMENT, BHARAT PETROLEUM CORPORATION LIMITED, KOCHI REFINERY, AMBALAMUGAL -682302, RESIDING AT MANNAMPILLY HOUSE, CHENGAL, KALADY P.O., -683574.
- 6 THE COCHIN REFINERIES EMPLOYEES ASSOCIATION, BHARAT PETROLEUM CORPORATION LIMITED, KOCHI REFINERY, AMBALAMUGAL -682302, REPRESENTED BY ITS GENERAL SECRETARY, PRAVEENKUMAR P., AGED 42 YEARS, S/O.

K.N.PONNAPPAN, SHIFT CHEMIST-A, Q.C.LAB, BHARAT PETROLEUM CORPORATION LIMITED, KOCHI REFINERY, AMBALAMUGAL -682302, RESIDING AT KODUVATHARA HOUSE, NADAKKAVU P.O., UDAYAMPEROOR, ERNAKULAM-682307.

- 7 REFINERY EMPLOYEES UNION , BHARAT PETROLEUM CORPORATION LIMITED, KOCHI REFINERY, AMBALAMUGAL -682302, REPRESENTED BY ITS GENERAL SECRETARY, NAZEEMUDEEN S.K., S/O. KALEELUDEEN, AGED 54 YEARS, SENIOR FITTER CRAFTSMAN, GRADE VII, BHARAT PETROLEUM CORPORATION LIMITED, KOCHI REFINERY, AMBALAMUGAL -682302, RESIDING AT OMPONDIL, MARKET ROAD, THRIPIUNITHURA-682301.
- 8 BPCI MAZDOOR SANGH, BHARAT PETROLEUM CORPORATION LIMITED, KOCHI REFINERY, AMBALAMUGAL -682302, REPRESENTED BY ITS GENERAL SECRETARY, BINIL I., S/O. PAVITHRAN I, AGED 43 YEARS, OPERATOR-A, GRADE VII, BHARAT PETROLEUM CORPORATION LIMITED, KOCHI REFINERY, AMBALAMUGAL -682302, RESIDING AT ILLATH HOUSE, VARIKOLI P.O., PUTHENKURIZ, ERNAKULAM-682308.

BY ADVS.
ELVIN PETER P.J.
N.ANAND

RESPONDENT/S:

- 1 UNION OF INDIA
MINISTRY OF PETROLEUM AND NATURAL GAS SHASTRI BHAVAN,
NEW DELHI-110001, REPRESENTED BY ITS SECRETARY.
- 2 BHARAT PETROLEUM CORPORATION LIMITED, BHARAT BHAVAN,
4 AND 6 CURRIMBOY ROAD, BALLARD ESTATE, MUMBAI-
400001, REPRESENTED BY ITS CHAIRMAN AND MANAGING
DIRECTOR.
- 3 THE CHIEF GENERAL MANAGER (HR), BHARAT PETROLEUM
CORPORATION LIMITED, KOCHI REFINERY, AMBALAMUGAL
-682302.
- 4 SHIBULAL.G
AND 4 OTHERS SOUGHT TO BE IMPEADED
- 5 ROCKERY VINOD J
STAFF NO.84265,BPCL KOCHI REFINERY, AMBALAMUGAL, KOCHI-

682302

- 6 BIBIN VARGHESE
STAFF NO.84353,BPCL KOCHI REFINERY,AMBALAMUGAL,KOCHI-
682302
- 7 ANCILY C.V
STAFF NO.84562,BPCL KOCHI REFINERY,AMBALAMUGAL,KOCHI-
682302
- 8 ELDHO PHILIP, STAFF NO.84485,BPCL KOCHI
REFINERY,AMBALAMUGAL,KOCHI-682302
ADDITIONAL R4 TO R8 ARE IMPEADED AS PER ORDER DATED
14.07.2021 IN IA 01/2021 IN WP(C) 12838/2021.

BY ADVS.
P.BENNY THOMAS
P.RAMAKRISHNAN
D.PREM KAMATH
TOM THOMAS (KAKKUZHIYIL)
ABEL TOM BENNY
JYOTHISH KRISHNA
AHAMMAD SACHIN K.
KURIAN OOMMEN THERAKATH
SRUTHY J. MAMPILLY
PREETHI RAMAKRISHNAN (P-212)
T.C.KRISHNA
C.ANIL KUMAR
ASHA K.SHENOY
PRATAP ABRAHAM VARGHESE

OTHER PRESENT:

SRI.JAMSHED CAMA (SR.)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
03.11.2021, ALONG WITH WP(C).12917/2021, THE COURT ON 09.05.2022
DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

MONDAY, THE 9TH DAY OF MAY 2022 / 19TH VAISAKHA, 1944

WP(C) NO. 12917 OF 2021

PETITIONER/S:

- 1 JOSEPH DENNIS T.P., AGED 36 YEARS
S/O. PETER T.B., STAFF NO.84365, OPERATOR B, CDU 2
MANUFACTURING 1 BPCL KOCHI RERINERY, AMBALAMUGAL,
PIN-682302, RESIDING AT THATHAMANGALATH HOUSE,
PUTHENKURISH P.O., MANANTHDAM, ERNAKULAM.
- 2 SUREJ MOHAN RAJ, AGED 42 YEARS, S/O. K.K. MOHANRAJ,
STAFF NO.84546, SHIFT CHEMIST, QC LAB (GRADE 6), BPCL
KOCHI RERINERY, AMBALAMUGAL, PIN-682302, RESIDING AT
SAMRUDHI, CHETRAPPILLY LANE, MUPPATHADAM, PIN-683110.

BY ADVS.
C.S.AJITH PRAKASH
T.K.DEVARAJAN
FRANKLIN ARACKAL
PAUL C THOMAS
M.B.SOORI
BABU M.
NIDHIN RAJ VETTIKKADAN
HAARIS MOOSA
NIKHITA ANN REBELLO
ADESH JOSHI

RESPONDENT/S:

- 1 UNION OF INDIA, REPRESENTED BY THE SECRETARY,
MINISTRY OF HEAVY INDUSTRIES AND PUBLIC ENTERPRISES,
GOVERNMENT OF INDIA, UDYOG BHAWAN, RAFI MARG, NEW
DELHI-110001.
- 2 UNION OF INDIA THROUGH THE SECRETARY,
MINISTRY OF PETROLEUM AND NATURAL GAS, GOVERNMENT OF
INDIA, A-WING, SHASTRI BHAVAN, DR. RAJENDRA PRASAD
ROAD, NEW DELHI-110001.

- 3 THE DIRECTOR, DEPARTMENT OF PUBLIC ENTERPRISES,
PUBLIC ENTERPRISES BHAVAN, BLOCK NO.14, CGO COMPLEX,
LODHI ROAD, NEW DELHI-110005.
- 4 THE CHAIRMAN AND MANAGING DIRECTOR,
BHARAT PETROLEUM CORPORATION LIMITED, BHARAT BHAVAN,
BALLARD ESTATE, MUMBAI-400001.
- 5 THE CHIEF GENERAL MANAGER (HR)/IC, BHARAT PETROLEUM
CORPORATION LIMITED, BPCL-KOCHI REFINERY, KOCHI-
682302.
- 6 THE GENERAL MANAGER (COMP AND BEN), BHARAT PETROLEUM
CORPORATION LIMITED, BHARAT BHAVAN, BALLARD ESTATE,
MUMBAI-400001.
- 7 COCHIN REFINERIES EMPLOYEES ASSOCIATION,
REG. NO.120/67, BPCL-KOCHI REFINERY, AMBALAMUGHAL,
KOCHI-682302, REPRESENTED BY ITS GENERAL SECRETARY
MR. PRAVEENKUMAR P.

BY ADVS.
SRI.B.PREM KUMAR, CGC
P.BENNY THOMAS
D.PREM KAMATH
TOM THOMAS (KAKKUZHIYIL)
ABEL TOM BENNY
JYOTHISH KRISHNA
AHAMMAD SACHIN K.
KURIAN OOMMEN THERAKATH
SRUTHY J. MAMPILLY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
03.11.2021, ALONG WITH WP(C).12838/2021, THE COURT ON 09.05.2022
DELIVERED THE FOLLOWING:

COMMON JUDGMENT

Writ petitioners in W.P(C).No.12917 of 2021 are two employees of Bharat Petroleum Corporation Limited, Kochi Refinery and petitioners 1 to 4 in W.P(C).No.12838 of 2021 are another set of employees of the same management. Petitioners 5 to 8 in W.P(C).No.12838 of 2021 are the Association of the employees and workmen in BPCL. The company and its Chief General Manager are arrayed as the respondents in both the writ petitions. The dispute relates to the Post Retirement Medical Benefit Scheme (PRMBS)

2. Bharat Petroleum Corporation Limited (for short, 'BPCL') and the various employees entered into a long term settlement dated 28.08.2002 for a period of 10 years covering the period from 01.08.2008 to 31.07.2018. The significant clause in issue in the writ petitions is clause 42, which provides as follows:

42. Retirement Benefits:

In accordance with Government guidelines, retirement benefits including contributory Provident Fund, Gratuity, New Pension Scheme, Post Retirement Medical Benefits and Monthly Ex-Gratia Scheme (MEGS) shall be within the ceiling of upto 30% of revised Basic Pay + Stagnation Relief Increment (if any) and DA with effect from 01.08.2008.

3. The employees and workmen who belong to Sub Executive

level cadre staffs were governed by the above long term settlement. Relevant portions of the above settlement is produced as Ext.P4 in W.P(C).No.12838 of 2021 and the full text of the long term settlement is produced as Ext.R2(b) along with the counter affidavit filed by the BPCL.

4. While so, Ext.P6 dated 10.06.2021 was issued by the BPCL in the form of an administrative order. The crucial parts of it are as follows:

“ (i) Currently, only those employees who have completed 25 and more years of service are eligible to become members of PRMBS. Consequently, those employees who have completed 25 years of service as on 01.06.2021, would continue to be eligible for PRMBS.

(ii) Employees who have completed greater than 15 and lesser than 25 years of service as on 01.06.2021, will be given a one time irrevocable voluntary option to enrol for the PRMB scheme. If, however, they are not inclined to enrol for the benefits of the scheme, they may choose not to enrol.

In case of employees who opt not to enrol, any contribution made on their behalf by the Corporation towards PRMBS from 01.01.2007 or their respective date of joining, whichever is later, will be transferred to the respective employees' National Pension Scheme (NPS).

Consequently, future contribution towards PRMBS from the 30% of retirement benefits would also be discontinued and instead transferred to their respective NPS accounts.

(iii) Employees with less than 15 years of service as on 01.06.2021, would not be eligible for PRMBS.

In case of those employees, any contributions made on their behalf by the Corporation towards PRMBS from 01.01.2007 or their respective date of joining, whichever is later, will be transferred to the respective employees' National Pension Scheme (NPS). Consequently, future pension towards PRMBS from the 30% of retirement benefits would also be discontinued and instead transferred to their respective NPS accounts."

5. The contention of the petitioners herein is that, they have not completed 15 years as on the targetted date and hence, they fall within the category of employees who have less than 15 years of service as on 01.06.2021 and by virtue of Ext.P6, they stand outside the post retirement medical Benefit Scheme implemented by virtue of clause 42 of the long term settlement.

6. Petitioners claim that the Post Retirement Medical Benefit Scheme has been in vogue in BPCL as a welfare measure. According to the petitioners, it was introduced to provide sustainable medical benefits to eligible employees and their dependents, having regard to

the occupational hazards, arising from the nature of their employment in BPCL. It was contended by the petitioner that, the benefit so extended to the petitioners by a binding settlement cannot be withdrawn by a unilateral notification of the company. Hence, it was contended that Ext.P6 was unsustainable, violative of the Fundamental Rights of the petitioners and liable to be quashed. The relief sought in W.P(C).No.12838 of 2021 was to quash Ext.P6 notification dated 10.06.2021 to the extent of withdrawing the Post Retirement Medical Benefit of the employees who have less than 15 years of service and to issue a writ or any other direction directing the respondents to continue with the current PRMBS, for employees covered by the long term settlement. In W.P(C).No.12917 of 2021 also, identical relief was sought, on the premise that notification was violative of Article 14 of the Constitution and liable to be interfered with.

7. Assailing the relief sought in the writ petitions, detailed counter affidavit has been filed by the respondents. Reply affidavit has also been filed by the writ petitioner. Pending the proceedings, by order in I.A.No.1 of 2021, additional respondents 4 to 8 were impleaded in W.P(C).No.12838 of 2021. The claim of the additionally impleaded respondents was that, they were original employees of the Kochi Refinery Limited and they were covered by the scheme. According to them, they were protected by the amalgamation scheme, by which, KRL was taken over by the BPCL. It was claimed that the workmen who

were employed in KRL before the amalgamation cannot be denied the post retirement medical benefit, by the impugned circular.

8. Relying on the specific pleadings in the counter affidavit, learned Senior Counsel for the petitioner Mr.Jamshed Cama, instructed by Mr.Benny P. Thomas, learned counsel for the BPCL, contended that the writ petition was not maintainable before this Court, since any deviation from the long term settlement arrived at by the parties through the machinery contemplated under the Industrial Disputes Act 1947, can be adjudicated only under the Industrial Disputes Act, by raising an industrial dispute, and not by a challenge in a writ petition. It was contended that the dispute strictly fell within the scope of an Industrial Dispute as specifically defined under Section 2(s) of the Industrial Disputes Act. It was further contended that the petitioners, by filing Ext.P7 complaint in W.P(C).No.12838 of 2021 had set in motion the scheme of raising the industrial dispute and thereby, separate writ petition seeking the same relief was legally not sustainable.

9. Advancing the above argument, learned counsel for the petitioners contended that the crux of the challenge amounts to an assertion by the petitioners that, they were entitled to the claim of medical benefit scheme and that question has to be adjudicated and resolved by the process known to law under the Industrial Disputes Act by reference to the Labour Court, or by entering into a fresh settlement.

10. Answering this, learned counsel for the petitioner Mr.C.S.Ajith Prakash and Adv.Elvin Peter relied on a catena of decisions. It was contended that, industrial dispute was not the correct mechanism contemplated under the Statute in the peculiar facts and circumstances of the case. Learned counsel for the petitioner, to counter the argument of the learned senior counsel for the BPCL, placed reliance on the decision of the Supreme Court in **Chennai Port Trust v. The Chennai Port Trust Industrial Employees Canteen Workers Welfare Association and ors. [2018(6) SCC page 202]**. That was a case wherein the employees who were engaged in a canteen as contemplated under Sec.47 of the Factories Act claimed permanency and that, they should be paid at par with the regular employees of the Chennai Port Trust. Rejecting the contention that the Writ Petition was not maintainable in the light of the availability of effective relief under the Industrial Disputes Act Supreme Court held that, the High Court, after having entertained the Writ Petition and granted interim reliefs on merits, the objection had lost its significance.

11. To counter this argument, learned senior counsel for the BPCL placed reliance on the decision reported in **Indian Petrochemicals Corpn. Ltd. And Ors. v. Shramik Sena and Ors. [1999(6) SCC 439]**. That was a case, wherein, the writ petition was filed before the High Court for the declaration that the workmen whose names were shown in the register were regular workmen of the

management and were entitled to have the same pay scales and service conditions as were applicable to regular workmen of the management. It was held that, the Industrial Tribunal had accepted the contention of the employer as against the plea put forth by the management and the employer did not think it appropriate to challenge the decision of the Industrial Court which was final.

12. In **M/s.Fabril Gasosa and Others v. Labour Commissioner and Others [1997 KHC 757]** the question that arose related to the freezing of variable DA granted by a settlement. The defence set up by the management was that, such concession was not sought and was not available also. It was held that a conjoint reading of Section 2(p) of the Act and Rule 58 unmistakably showed that the settlement contemplated by the said dispute was a written settlement arrived at between the parties. Hence, it could not be varied or modified except by a written settlement or by a written memorandum, duly acknowledged by both parties.

13. Learned senior counsel placed heavy reliance on clauses 42, 45 and 50 of the long term settlement to contend that the issue raised by the petitioners was one of interpretation of clause 42 and consequently, such questions of fact could be settled only after taking evidence.

Clauses 42, 45 and 50 reads as follows:

“42. Retirement Benefits:

In accordance with Government guidelines, retirement benefits including contributory Provident Fund, Gratuity, New Pension Scheme, Post Retirement Medical Benefits and Monthly Ex-Gratia Scheme (MEGS) shall be within the ceiling of upto 30% of revised Basic Pay + Stagnation Relief Increment (if any) and DA with effect from 01.08.2008.

45. Welfare and any other benefit schemes:

In supersession of any clauses in all the previous LTSs, all the Welfare and Benefit Schemes and the rules thereof shall be governed by suitable Administrative orders issued from time to time.

50. Implementation/Interpretation of MOS.

The parties shall abide by the MOS in true spirit. In case there is any dispute regarding implementation of this settlement or interpretation of any of its provisions, the parties shall try to sort out their difference through mutual discussion, failing which, they shall resort to the machinery prescribed under the Industrial Disputes Act, 1947."

14. Both sides placed reliance on a catena of decisions to advance their contention regarding the admissibility of writ petition claiming reliefs. The attention of this Court has been drawn to various decisions which held that, when an alternate remedy was available,

scope of granting relief in a writ petition was not proper. Learned counsel for the petitioner placed reliance on the decision reported in **Premier Automobiles Ltd. v. Kamalekar Shantaram Wadke of Bombay and Others [AIR 1975 SC 2238]. Transport and Dock Workers Union and Others v. Mumbai Port Trust and Another [(2011)2 SCC 575]** was a case, wherein, different working hours were provided for the staff. Having regard to the nature of the allegations and the establishment of violation of Article 14 of the Constitution of India, it was held that, writ petition was maintainable. Learned counsel for the petitioner further relied on the decisions reported in **Uttaranchal Forest Development Corpn. And Ors. v. Jabar Singh and Ors. [(2007)2 SCC 112] and Surendran Nair P.N, v. Chairman/Managing Director, BPCL and Ors. [MANU/KE/4094/2018].**

15. On the other hand, it was contended by the learned senior counsel that, when alternate specific provision was made, jurisdiction under Constitution of India was impliedly barred. No relief could be granted thereafter. To buttress this contention, learned counsel for the respondent relied on the decision in **Premier Automobiles Ltd. (Supra).** Respondent further relied on the decisions reported in **Uttaranchal Forest Development Corpn. (surpa), Commissioner of Income Tax and Others v. Chhabil Dass Agarwal [2013 KHC 4619] and Joshi Technologies International Inc. v. Union of India**

(UOI) and Ors. [MANU/SC/0616/2015]. Reliance was placed on the decisions reported in **Century Spinning and Manufacturing Company Ltd. And Another v. The Ulhasnagar Municipal Council and Another [1970(1) SCC 582], Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and Others [(1998)8 SCC 1]**

16. It is pertinent to note that the period of the long term settlement expired on 31.07.2018. By virtue of section 2(p) of the Industrial Disputes Act, settlement means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding, where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to the appropriate Government and the conciliation officer. It is binding on the parties by virtue of the provisions of the Industrial Disputes Act 1947. The long term settlement would continue to be in operation, till, it is superseded, overridden or withdrawn by the parties. This position is clear from the decision reported in **Fabril Gasosa's case (supra)**. Evidently, in the absence of any new long term settlement governing the parties, it has to be held that Ext.P4 settlement continue to be in force.

17. The impact of Ext.P6 in W.P(C).No.12838 of 2021 on Ext.P4 settlement has now to be evaluated. By virtue of Ext.P6, a division is made between the employees who have completed 25 years and those

who have less than 25 upto 15 years. It was provided that, only one category will be entitled to the benefit of PRMBS. On the other hand, by virtue of the notification, the employees with less than 15 years service as on 01.06.2021, would not be eligible for the medical benefit scheme. In other words, from among the employees who stood governed by the long term settlement, a new group including the petitioners was carved out. By virtue of that provision, benefit under clause 42 of the long term settlement stands denied to persons who have not completed 15 years of service as on 01.07.2021. In other words, settlement which was applicable to the entire sub executive level staff has now been tinkered with, by carving out a group of persons from its ambit and by denying the benefits to them by the said notification. Evidently, in the light of the decision reported in **Fabril Gasosa's case (supra)** settlement can be brought to an end only by an agreement between the parties or by a fresh settlement arrived at by the parties governing the earlier period.

18. This issue can be viewed from yet another angle. Evidently, the impact of Ext.P6 is to deny the benefits of the provisions of post retirement medical benefit scheme to a group of employees.

19. The impact of Ext.P6 as referred to earlier was to carve out a group of persons from the scope of clause 42 and to deny the benefit of PRMBS to such persons. Virtually, it was an instance of employer denying a benefit incorporated in a settlement, to a group of

beneficiaries. Any dispute relating to it cannot constitute an industrial dispute as contemplated under Section 2(s) of the Industrial Disputes Act. It is only an instance of employer depriving a group of persons governed by the settlement from enjoying the benefits of medical scheme by virtue of a unilateral administrative order. Suffice to hold that, since parties are governed by the settlement, the only method of depriving the terms of settlement to parties was by either bringing the settlement to an end or by entering into a fresh settlement. If the employer refuses to implement the benefit of a settlement to a limited group of persons, the remedy available to such persons is to challenge the refusal, and not by raising an industrial dispute. No disputed question of fact worth adjudication arises in this situation as correctly contended by the learned counsel for the petitioner. It is also pertinent to note that, no adjudication of facts in issue is also called in, in this dispute.

20. Having considered the entire issues involved, it is only to be held that the objection raised by the company regarding the sustainability of the writ petition is only to be rejected. Writ petition is perfectly maintainable in the nature of the reliefs sought.

21. As indicated earlier, only crucial question is regarding the legality of Ext.P6 notification in W.P(C).No.12383 of 2021. By virtue of the provisions of the Industrial Disputes Act, settlement cannot be brought to an end during its subsistence, completely or in part by a

unilateral notification issued by a party to the settlement.

22. The notification dated 10.06.2021 produced as Ext.P6 in W.P(C).No.12838 of 2021 which is Ext.P8 in W.P(C).No.12917 of 2021 to the extent it denies the benefit of clause 42 to petitioners who have not completed 15 years stand quashed.

In the result, writ petitions are allowed. Ext.P6 in W.P(C).No.12838 of 2021 which is Ext.P8 in W.P(C).No.12917 of 2021, to the extent it deprives the benefit of the medical scheme to those who have not completed 15 years stand quashed and there will be a direction to the employer BPCL to continue to give effect to the post retirement medical benefit scheme to the petitioners and similarly situated persons, without any distinction regarding the period of service and strictly in accordance with the long term settlement.

Writ Petitions are allowed as above.

Sd/-

SUNIL THOMAS

JUDGE

Sbna/

APPENDIX OF WP (C) 12917/2021

PETITIONER EXHIBITS

- Exhibit P1 A TRUE COPY OF THE OFFICE MEMORANDUM NO.2 (70)/08-DPE(WC)-GL-XVI/08 DATED 26/11/2008 ISSUED BY THE 1ST RESPONDENT.
- Exhibit P2 A TRUE COPY OF THE OM NO. 2 (70)/08-DPE(WC)-GL-VII/09 ISSUED BY THE 1T RESPONDENT DATED 02/04/2009.
- Exhibit P3 A TRUE COPY OF THE OFFICE MEMORANDUM F.NO.2 (1)/2013-DPE(WC)-GL-VI/13 DATED 24/01/2013 ISSUED BY THE 1ST RESPONDENT.
- Exhibit P4 A TRUE COPY OF THE POST RETIREMENT MEDICAL BENEFIT SCHEME (PRMBS) IN FORCE FOR THE RETIRED MANAGEMENT STAFF AND WORKMEN OF THE MARKETING IN MUMBAI REFINERY IS AVAILABLE AND TAKEN FROM THE WEBSITE.
- Exhibit P5 A TRUE COPY OF THE RELEVANT PAGE OF THE LONG TERM SETTLEMENT AT CLAUSE 42 OF BPCL KOCHI REFINERY, COVERING THE PERIOD 01/08/2008 TO 31/07/2018.
- Exhibit P6 A TRUE COPY OF THE OFFICE MEMORANDUM NO.W-02/0028/2017-DPE(WC)-GL-XIII/17 ISSUED BY THE 1ST RESPONDENT DATED 03/08/2017.
- Exhibit P7 A TRUE COPY OF THE CONSOLIDATED GUIDELINES ISSUED BY THE 1ST RESPONDENT DATED 27/09/2018.
- Exhibit P8 A TRUE COPY OF THE CIRCULAR NO.HRD. C & B.I. CON.PRMBS DATED 10/06/2021.

APPENDIX OF WP (C) 12838/2021

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE OFFICE MEMORANDUM DATED 26.11.2008 ISSUED BY THE GOVERNMENT OF INDIA.
Exhibit P2	TRUE COPY OF THE POST RETIREMENT MEDICAL BENEFITS SCHEME AT MUMBAI REFINERY AND EXTENDED TO KOCHI REFINERY OF RESPONDENT NO.2.
Exhibit P3	TRUE COPY OF THE OFFICE MEMORANDUM DATED 21.5.2014 ISSUED BY RESPONDENT NO.1.
Exhibit P4	TRUE COPY OF THE RELEVANT PORTION OF THE LONG TERM SETTLEMENT SCHEME.
Exhibit P5	TRUE COPY OF THE JUDGMENT DATED 20.3.2003 PASSED IN OP(C) NO.28675/2000-L.
Exhibit P6	TRUE COPY OF THE NOTICE DATED 10.6.2021 ISSUED BY RESPONDENT NO.2.
Exhibit P7	TRUE COPY OF JOINT LETTER DATED 15.6.2021 PREFERRED BY TRADE UNIONS AT BPCL- KOCHI REFINERY TO RESPONDENT NO.3.