IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

Con.Case(C).No. 1088 of 2015 (S) IN WP(C).37156/2010

AGAINST THE ORDER/JUDGMENT IN WP(C) 37156/2010 of HIGH COURT OF KERALA DATED 23-05-2011

PETITIONER(S)/PETITIONER IN THE WPC:

THOMAS KORUTH AGED 63 YEARS
S/O.THOMAS, PLACKEEZHU KOCHUPURAYIL HOUSE, ERAVIPEROOR
THIRUVALLA (BRANCH MANAGER (RETIRED), ERAVIPEROOR
BRANCH OF THIRUVALLA EAST CO-OPERATIVE BANK LTD.NO.3260).

BY ADV. SRI.S.SUBHASH CHAND

RESPONDENT(S)/R4 IN THE WPC:

THOMAS MATHEW
S/O.FATHER'S NAME NOT KNOWN TO THE PETITIONER)
GENERAL MANAGER
THE THIRUVALLA EAST CO-OPERATIVE BANK LTD.NO.3260
H.O.ERAVIPEROOR.

R1 BY ADV. SRI.GEORGE POONTHOTTAM

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN FINALLY HEARD ON 15-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

ANNEXURE 1-CERTIFIED COPY OF THE JUDGMENT DATED 23.5.2011 IN WPC NO.37156 OF 2010

ANNEXURE 2- TRUE COPY OF APPLICATION DATED 30.3.2015 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT

ANNEXURE 3-TRUE COPY OF THE POSTAL RECEIPT EVIDENCING DESPATCH OF ANNEXURE 2

ANNEXURE 4-TRUE COPY OF THE REMINDER DATED 25.5.2015

// TRUE COPY //

P.S. TO JUDGE

P.N. Ravindran, J.

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C.O.(C) No.1088 of 2015

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Dated this the 15th October, 2015

JUDGMENT

This contempt case is filed alleging that the respondent has willfully disobeyed Annexure 1 judgment. The petitioner is a former employee of Thiruvalla East Co-operative Bank Ltd. No.3260. He retired from service on 31.3.2010 while working as the Branch Manager of Eraviperoor branch of the bank. Upon retirement, he was paid Rs.3,50,000/- by way of gratuity. Shortly thereafter, he filed W.P.(C) No.37156 of 2010 in this court contending that he was entitled to receive a sum of Rs.9,52,996/- by way of gratuity. He had, in the said writ petition, prayed for a direction to the employer bank to pay the balance amount of Rs.6,02,996/- to him.

2. W.P.(C) No.37156 of 2010 was heard and disposed of along with W.P.(C) Nos.36925 of 2010 and 9014 of 2011, by Annexure 1 judgment delivered by me on 23.5.2011. The claim of the writ petitioners was that they are entitled to gratuity in excess of Rs.3,50,000/-. In view of the fact that the employer bank had not filed

a counter affidavit and disputed the entitlement of the writ petitioners to receive the gratuity in excess of the sum of Rs.3,50,000/-, I disposed of the writ petitions with the following directions:

> “6. Though the fourth respondent bank has been served it has not so far disputed the entitlement of the petitioners to receive gratuity in excess of the sum of Rs.3.50 lakhs. In such circumstances in the light of the decision of this Court in **Retnavalli v. Ambalapadu Service Co-op. Bank Ltd.** (supra) which was affirmed by the Division Bench of this Court in W.A. No,1250 of 2004 and the judgment of a learned single Judge of this Court in W.P.(C) Nos.5351 & 5873 of 2010, I dispose of the writ petition with a direction that if under the scheme the petitioners were entitled to receive gratuity in excess of Rs.3.50 lakhs, which has already been paid to them, the fourth respondent bank shall take steps to disburse the balance amount of gratuity expeditiously and in any event within one month from the date on which the petitioners submit an appropriate representation accompanied by a certified copy of this judgment before the General Manager of the fourth respondent bank. If till date the fourth respondent bank has not so far received payment in excess of Rs.3.50 lakhs from the Life Insurance Corporation of India, it will be open to them to

> move the Life Insurance Corporation of India seeking such payment, if under the scheme the Life Insurance Corporation of India was liable to pay more than Rs.3.50 lakhs in respect of each of the petitioners. If the petitioners have any other grievance other than payment of gratuity, it will be open to them to move the competent authority seeking redressal of their grievances. Their contentions in that regard are kept open."

3. The substance of the direction issued by me was that if under the Employees Group Gratuity Life Assurance Scheme (hereinafter referred to as 'the scheme' for short), the writ petitioners were entitled to receive gratuity in excess of Rs.3,50,000/-, the bank shall take steps to disburse the balance amount of gratuity expeditiously and in any event within one month from the date on which the petitioners submit an appropriate representation accompanied by a certified copy of the judgment before the General Manager of the bank. I had also observed that if under the scheme, the Life Insurance Corporation of India was liable to pay more than Rs.3,50,000/- in respect of each of the petitioners and the payment already received by the bank is only Rs.3,50,000/-, it will be open to the bank to move the Life Insurance

Corporation of India seeking such payment of the sum in excess of Rs.3,50,000/-.

4. The main ground raised in the instant contempt case is that though the petitioner submitted a copy of Annexure 1 judgment before the General Manager of the Thiruvalla East Co-operative Bank on 30.3.2015 along with Annexure 2 application wherein he had claimed payment of the sum of Rs.6,02,996/- with interest at 10% from 1.4.2010, the balance amount of gratuity has not been disbursed. It is stated that a reminder in that regard evidenced by Annexure 4, was also sent.

5. An affidavit dated 14.10.2015 sworn to by the respondent who is the General Manager of the bank, has been filed in the instant contempt case. Paragraph 2 thereof is extracted below:

> "2. Without prejudice to what is stated above, it is submitted that the petitioner retired from the service on 31.3.2010. He had 36 years of service at the time of retirement. He was given Rs.3.5 lakhs towards gratuity on 8.6.010. The gratuity amount was received from the LIC on 25.5.2010. The amount received from LIC was Rs. 3 lakhs 53,958/-. It is submitted

> that the gratuity was calculated on the basis of the last drawn pay, DA and HRA. It is therefore submitted that in view of the amount received from LIC and the payment of Rs.3.5 lakhs to the petitioner on 8.6.2010 the petitioner is not entitled to get any further amount."

6. The substance of the averments therein is to the effect that the gratuity amount received from the Life Insurance Corporation of India on 25.5.2010 for payment to the petitioner was Rs.3,53,958/- and he was given the sum of Rs.3,50,000/- towards gratuity on 8.6.2010. It is also stated that in view of the said payment, the petitioner is not entitled to any further amount. It is evident from the stand taken by the respondent in his affidavit extracted above that the bank has not so far received any amount in excess of Rs.3,50,000/- under the scheme from the Life Insurance Corporation of India. The direction issued by this court in Annexure 1 judgment that if under the scheme, the petitioners were entitled to receive gratuity in excess of Rs.3,50,000/- which has already been paid to him, the bank shall take steps to disburse the balance amount of gratuity within the time limit stipulated in the judgment. I had also observed that if the bank has not received payment

in excess of Rs.3,50,000/- from the Life Insurance Corporation of India, it will be open to the bank to move the Life Insurance Corporation of India seeking such payment, if under the scheme the Life Insurance Corporation of India was liable to pay more than Rs.3,50,000/- in respect of each of the writ petitioners. There was no material before this court to hold that the amount payable by the Life Insurance Corporation of India under the scheme was in excess of Rs.3,50,000/-. There is no such material even in the instant contempt case also. It is evident from the affidavit dated 14.10.2015 filed by the respondent, that the stand of the bank is that under the scheme the petitioner is entitled only to the sum of Rs.3,50,000/-. In such circumstances, I am of the opinion that the only course open to this court will be to direct the General Manager of the bank to issue a formal order in writing within two weeks from the date of receipt of a certified copy of this judgment, communicating the bank's stand to the petitioner, by way of reply to Annexures 2 and 4 produced in the instant contempt case, so that the petitioner can, if he is aggrieved thereby and if he is so advised, move the appropriate authority/forum for redressal of his grievances in regard to the quantum of gratuity payable under the scheme. From the stand taken by the respondent and having regard to the terms of Annexure 1 judgment, I am not persuaded to hold that the respondent has willfully violated Annexure 1 judgment.

I therefore find no good grounds to proceed further with this contempt case. It is accordingly closed with the aforesaid observations.

(P.N. Ravindran, Judge.)

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