

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

OP(LC).No. 4004 of 2012 (O)

CP 60/2006 of LABOUR COURT, ERNAKULAM

PETITIONER :

CHANGANACHERRY CO-OPERATIVE RUBBER MARKETING
SOCIETY LTD., NO K/364, KARUKACHAL
KOTTAYAM DIST-REP.BY ITS MANAGING DIRECTOR

BY ADV. SRI.MATHEW SEBASTIAN

RESPONDENTS :

1. SUNNY PHILIP, FACTORY MANAGER
PLC FACTORY NETHALLOOR OF CHANGANACHERRY CO-OPERATIVE
RUBBER MARKETING SOCIETY LTD K-364
R/A.KAKKANATTU HOUSE, MANTHAURUTHY P.O.
KOTTAYAM DIST-686542
2. ANTONY JOSEPH, SHIFT SUPERVISOR
PLC FACTORY NETHALLOR OF CHANGANACHERRY CO-OPERATIVE
RUBBER MARKETING SOCIETY LTD K-364
R/A.MADUKKAKKAL HOUSE, SOUTH PAMPADY P.O.,
KOTTAYAM-686521
3. MATHEW P.J., SHIFT SUPERVISOR
PLC FACTORY NETHALLOR OR CHANGANACHERRY
CO-OPERATIVE RUBBER MARKETTING SOCIETY LTD K-364
R/A.PUTHUPARAMBIL HOUSE, PUNNAVELLY P.O, KOTTAYAM
PIN-689589
4. BABU AUGISTIEN, FACTORY HELPER
PLC FACTORY NETHALLOR OR CHANGANACHERRY
CO-OPERATIVE RUBBER MARKETTING SOCIETY LTD K-364
R/A.PUTHENPURAKKAL HOUSE,
CHAMPAKARA MANTHURUTHY P.O., KOTTAYAM DIST-686542

*ADDL. R5 IMPEADED :

5. DEPUTY TAHSILDAR (RR) TALUK OFFICE,
CHANGANACHERRY, KOTTAYAM DIST - 686101
*ADDL. R5 IS IMPEADED VIDE ORDER DT 12/8/2014 IN IA 7525/14.

R1 TO R4 BY ADV. SRI.LIJI.J.VADAKEDOM
R5 BY GOVERNMENT PLEADER SRI. P.P. PADMALAYAN

THIS OP (LABOUR COURT) HAVING BEEN FINALLY HEARD
ON 18-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE DECISION DT 16/9/2002 OF THE PETITIONER SOCIETY.
- P2: COPY OF THE CLAIM PETITION FILED BY THE RESPONDENT (CP 60/2006) BEFORE THE LABOUR COURT, ERNAKULAM.
- P3: COPY OF THE ORDER OF LABOUR COURT, ERNAKULAM IN C.P. 60/2006 DT 4/10/2012.
- ADDL.P4: COPY OF THE REVENUE RECOVERY PROCEEDINGS DT 20/5/2014 OF THE ADDL R4.

RESPONDENT'S EXHIBITS :

- EXT.R4(A): COPY OF THE COUNTER OBJECTION FILED BY THE PETITIONER IN C.P. 60/2006 BEFORE THE LABOUR COURT, ERNAKULAM.
- EXT.R4(B): COPY OF THE FIXED RECEIPT NO. 1010 DT 31/3/2001 IN THE NAME OF THE R1 FOR AN AMOUNT OF RS.28,200/- WHICH IS REPAYABLE ON 21/6/2002 ISSUED BY THE PETITIONER- SOCIETY.
- EXT.R4(C): COPY OF THE FIXED RECEIPT NO. 546 DT 21/5/2001 IN THE NAME OF THE R1 FOR AN AMOUNT OF RS 7600/- WHICH IS REPAYABLE ON 21/6/2002 ISSUED BY THE PETITIONER-SOCIETY.
- EXT.R4(D): COPY OF THE FIXED RECEIPT NO. 516 DT 31/3/2001 IN THE NAME OF THE R3 FOR AN AMOUNT OF RS. 18,700/- WHICH IS REPAYABLE ON 31/4/2002 ISSUED BY THE PETITIONER- SOCIETY.
- EXT.R4(E): COPY OF THE FIXED RECEIPT NO. 518 DT 31/3/2001 IN THE NAME OF THE R4 FOR AN AMOUNT OF RS.1255/- WHICH IS REPAYABLE ON 31/4/2002 ISSUED BY THE PETITIONER-SOCIETY.
- EXT.R4(F): COPY OF THE FIXED RECEIPT NO. 550DT 21/5/2001 IN THE NAME OF THE R4 FOR AN AMOUNT OF RS. 2200/- WHICH IS REPAYABLE ON 21/6/2002 ISSUED BY THE PETITIONER-SOCIETY.

//TRUE COPY//

P.A. TO JUDGE

bp

A.M.SHAFIQUE, J

O.P.(L.C) No.4004 of 2012

Dated this the 18th day of November 2015

J U D G M E N T

This writ petition is filed challenging Ext.P3, an award passed by the Labour Court, Ernakulam in C.P.No.60/2006 and for ancillary reliefs.

2. It is submitted by the learned counsel for the petitioner and it is admitted by the respondents that the subject matter in issue involves the claim for arrears of salary by the employees of a Co-operative Society. Whether an employee of a Co-operative Society is entitled to invoke the jurisdiction of the Labour Court under the Industrial Disputes Act, has been decided by the Larger Bench of this Court in **Chirayinkeezhu Service Co-operative Bank Ltd. v. Santhosh** [2015(4) KLT 163] and in the majority view, it was held that the Labour Court or Industrial Tribunal will not have jurisdiction to entertain a claim by an employee of the Co-operative Society invoking the Industrial Disputes Act.

3. In view of the law laid down by the Larger Bench of this Court, this writ petition is only to be allowed and Ext.P3 order passed by the Labour Court is set aside on that ground. On

account of the aforesaid fact, no other grounds are considered by this Court. Respondents are given opportunity to approach the authorities under the Co-operative Societies Act for appropriate reliefs.

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr