

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

OP.No. 19087 of 1998 (V)

PETITIONER(S) :

K.JANARDHANAN PILLAI,
VRINDAVAN, NJARAKKAL, PERINAD, KOLLAM

BY ADV. SRI.P.B.SURESH KUMAR (QUILON)

RESPONDENT(S) :

1. STATE OF KERALA, REPRESENTED BY THE CHIEF
SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIATE,
THIRUVANANTHAPURAM
2. THE DEPUTY DIRECTOR OF EDUCATION, KOLLAM
3. THE DEPUTY DIRECTOR OF EDUCATION,
THIRUVANANTHAPURAM
4. THE DEPUTY DIRECTOR OF EDUCATION,
KASARAGOD

BY ADV. GOVERNMENT PLEADER SMT. M.J. RAJASREE

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

O.P. NO. 19087/1998

APPENDIX

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF THE JUDGMENT IN
O.P.NO. 2832/1995 DATED 22-2-1995

EXT.P2: TRUE COPY OF THE AFFIDAVIT FILED
BY THE PETITIONER BEFORE THE SECOND
RESPONDENT DATED 7-3-1995

EXT.P3: TRUE COPY OF THE NOTICE ISSUED BY
THE SECOND RESPONDENT TO THE PETITIONER
DATED 20-08-1998

A.M. SHAFFIQUE, J.

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O.P. No. 19087 of 1998 - V
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Dated : 9th March, 2015

JUDGMENT

Petitioner has approached this Court challenging Ext. P3 notice dated 20-08-1998 by which a liability has been fixed on the petitioner for an amount for Rs. 6,623/-. Petitioner challenges the same, inter alia, contending that he retired from service on 31-3-1993, and, therefore, Ext. P3 notice issued to him 20-08-1998 is contrary to Note 3 to Rule 3 of Chapter I of Part III of K.S.R.

2. Counter affidavit has been filed by the first respondent State and its authorities, inter alia, stating that the petitioner had given an undertaking that he will pay whatever amount claimed as liability while receiving his pensionary benefits. The

pensionary benefits were already disbursed to the petitioner as per the directions issued by this Court in O.P. No. 2832 of 1995. In such circumstances, according to the respondents, the petitioner cannot contend that he is not responsible to pay the amount.

3. Though there is an undertaking on behalf of the petitioner that he will remit all or any amount that will be fixed as liability and has executed necessary documents in that behalf, as per Note 3 to Rule 3 of Chapter I of Part III K.S.R., the liability has to be fixed, as far as the retired employees are concerned, within three years from the date of retirement. Admittedly, in this case, the liability has been fixed beyond the said period, and therefore, no steps could be taken to recover any amount on that basis. By giving the undertaking the petitioner had not waived his right to claim the benefit of Note 3 to Rule 3

of Chapter I of Part III K.S.R.

Under such circumstances, this Writ Petition is only to be allowed. Accordingly, this Writ Petition is allowed, quashing Ext. P3.

**Sd/-A.M. SHAFFIQUE
(Judge)**

ani/

/truecopy/

P.S.toJudge

A.M. SHAFFIQUE, J.

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O.P. No. 19087 of 1998 - V
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Dated : 9th March, 2015

JUDGMENT