

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WA.No. 148 of 2009 (E) IN OP.10824/1998

AGAINST THE JUDGMENT IN OP 10824/1998 of HIGH COURT OF KERALA
DATED 17-09-2008

APPELLANT:

A.K.MENON
HOUSE NO.3/63,
DWARAKA (AMBADY)
POONITHURA P.O., KOCHI – 682 317.

BY ADV. SRI.C.P.PEETHAMBARAN

RESPONDENTS/PETITIONER/2ND & 3RD RESPONDENTS:

1. THE CHIEF GENERAL MANAGER, STATE BANK OF INDIA
LOCAL HEAD OFFICE, 21, RAJAJI SALAI,
MADRAS – 600 001.
2. THE CONTROLLING AUTHORITY,
APPOINTED UNDER THE PAYMENT OF GRATUITY ACT 1972,
AND THE ASSISTANT LABOUR COMMISSIONER (CENTRAL)
KOCHI – 16.
3. THE APPELLATE AUTHORITY,
APPOINTED UNDER THE PAYMENT OF GRATUITY ACT 1972,
AND THE REGIONAL LABOUR COMMISSIONER (CENTRAL)
KALATHIPARAMBIL ROAD, KOCHI – 16.

R1 BY ADV. SRI.GEORGE THOMAS(MEVADA), SC, SBI

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
30.07.2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

smv

**ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.**

W.A. No.148 of 2009

Dated this the 30th day of July, 2015

JUDGMENT

Antony Dominic,J.

This appeal is filed by the respondent in O.P. No.10824 of 1998. The original petition was filed by the respondent herein who challenged Exts.P3 and P5, orders passed by the Controlling Authority and Appellate Authority under the Payment of Gratuity Act directing that the benefit of the gratuity scheme be extended to the appellant. By the judgment under appeal, referring to paragraph 389 of the Sastri award, the learned Single Judge held that the benefit of gratuity claimed by the appellant is available only to those employees who are not receiving non-contributory pension. It is this judgment which is under challenge before us.

2. We heard the learned counsel for the parties and considered the submissions made.

3. The short question that arose for consideration in the writ petition was whether the Controlling Authority and the Appellate Authority were justified in allowing the claim of the

appellant for benefit of gratuity as introduced by the Sastri award and the award of the Labour Appellate Tribunal. Paragraph 389 of the Sastri award and paragraph 370 of the award of the Labour Appellate Tribunal, which are extracted in the judgment under appeal and in the memorandum of appeal show that the benefit of gratuity claimed, which is in addition to the statutory gratuity due under the Payment of Gratuity Act, is available only to those retired employees who are not entitled to the benefit of non-contributory pension scheme. There is no dispute to the fact that the appellant is in receipt of pension under the non-contributory pension scheme. If that be so, the appellant could not have claimed to the benefit of gratuity under the scheme. Consequently, the conclusion of the learned Single Judge interfering with the findings to the contrary contained in Exts.P3 and P5 orders of the Controlling Authority and the Appellate Authority does not merit any interference.

Appeal fails and accordingly it is dismissed.

**ANTONY DOMINIC
JUDGE**

**SHAJI P. CHALY
JUDGE**

smv