

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

RP.NO. 100 OF 2015 ()

AGAINST THE JUDGMENT IN WP(C).NO.13035/2014 DATED 14-10-2014.
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REVIEW PETITIONER/PETITIONER:

**BINOY C.J., AGED 36 YEARS,
S/O. JOSEPH, CHEMPANECKAL HOUSE,
AYYAPPANKOVIL P.O., IDUKKI DISTRICT-685 507.**

BY ADV. SRI.M.K.CHANDRA MOHANDAS.

RESPONDENTS/RESPONDENTS:

- 1. REGISTRAR OF CO-OPERATIVE SOCIETIES,
DEPARTMENT OF CO-OPERATION,
OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
STATUE, THIRUVANANTHAPURAM-695 001.**
- 2. JOINT REGISTRAR (GENERAL),
OFFICE OF THE JOINT REGISTRAR (GENERAL),
IDUKKI, PAINAVU-685 508.**
- 3. ASSISTANT REGISTRAR (GENERAL),
UDUMBANCHOLA-685 517.**
- 4. AYYAPPANKOVIL SERVICE CO-OPERATIVE BANK LTD.NO.3558,
H.O. MATTUKATTA, AYYAPPANKOIL P.O.-685 507,
REPRESENTED BY ITS PRESIDENT.**
- 5. K.J. KUTTIACHAN, PRESIDENT,
AYYAPPANKOIL SERVICE CO-OPERATIVE BANK LTD. NO.3558,
H.O. MATTUKATTA, AYYAPPANKOIL P.O., PIN-685 507.**

**R1 TO R3 BY GOVT. PLEADER SRI.R. RANJITH.
R5 BY ADV. SRI.LIJI.J.VADAKEDOM.**

**THIS REVIEW PETITION HAVING COME UP FOR ADMISSION
ON 07-04-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

K.VINOD CHANDRAN, J

R.P. 100 of 2015
in
W.P.(C).13035 of 2014
and
W.P.(C).13035 of 2014

Dated 7th April, 2015

ORDER/JUDGMENT

The petitioner has filed the above Review Petition on grounds which would not enable review of the judgment going by the binding precedent of the Honourable Supreme Court in **State of WB v. Kemal Sengupta (2008) 8 SCC 612**).

The learned counsel for the review petitioner submits that he was not heard when the matter was disposed of. It is to be noticed that no grounds have been raised on that count, but the statement of facts, avers that the counsel for the petitioner was not heard since he was not present in Court when the matter was called. The explanation is that by an oversight, the clerk could not locate the date of posting of the writ petition in the list and hence, there was no

representation and that the writ petition was dismissed as infructuous. That is not a ground for review, however, since the matter was disposed of as infructuous, the judgment dated 14.10.2014 would stand recalled.

2. I have heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.

3. The learned counsel for the petitioner submits that the petitioner was admittedly appointed as a collection Agent in the year 2003 and he was entitled to regularization as Peon or Watchman as per Circular No.10 of 2005 (Ext.P1). It is also submitted that Ext.R5(e) produced by the respondent Society is not a resignation letter and it was only due to coercion that the petitioner gave the aforesaid letter stopping his work with the respondent. It is also

submitted that he had been then appointed as a Watchman for a period of one month and if there was a resignation then there could have been no such appointment made.

4. The learned counsel for the respondents however, would contend that the petitioner admittedly had executed Ext.R5(e) letter which according to the respondent Society, is a resignation letter. The respondent Society had also accepted the same and issued Ext.R5(f) by which the petitioner was no longer in the service of the Bank. Subsequently the petitioner had approached the respondent seeking appointment to any post; contending that he had no other means of livelihood. The petitioner hence, was engaged on contract basis, as a Watchman. When daily wages for 23 days was calculated and paid to him, the petitioner refused to receive the same and left the Bank

and never turned up for any further work. It is also submitted that Ext.P1 Circular indicates that the Collection agent has to be regularized as a Collection agent and not as a Peon or Watchman and the petitioner's present contention is that he requires appointment as Peon or Watchman.

5. It cannot, at all, be said that Ext.R5 (e) is not a resignation letter. Whatever the reason behind Ext.R5(e), the petitioner had, in writing, informed the respondent Bank, his employer, that he is no more continuing in the employment. The employer Bank had also accepted the said resignation and issued a communication produced at Ext.R5(f) which is dated 16.4.2011. The petitioner has not challenged the said order. After considerable lapse of time, the petitioner has filed a complaint before the Joint Registrar seeking appointment to any other

post in the respondent Society. It is also to be noticed that even as per the request made by the petitioner before the Joint Registrar produced at Ext.P4, it is specifically contended that he had voluntarily abandoned the work of Collection agent. The subsequent appointment as a Watchman, in fact reinforces the contention of the Bank that the petitioner voluntarily quit his employment as a Collection agent.

6. In the above circumstances, the petitioner's resignation has to be accepted as having concluded the issue. The petitioner after having resigned from the job of the Collection Agent, cannot turn around and claim regularization as per Ext.P1 Circular which directed only regularization of persons who are continuing as Collection agents. The petitioner, at no time before the resignation, approached any of the authorities for regularization as per

Ext.P1 Circular. The petitioner's attempt to seek regularization is long afterwards, allegedly on one another person being appointed as Peon in the respondent Society. The said person is also not seen impleaded herein.

7. In any event, the petitioner having resigned from the job of Collection agent, nothing survives in the writ petition. The writ petition is devoid of merit.

Review Petition allowed and the writ petition stands dismissed.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

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