

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

WP(C).No. 3640 of 2005 (G)

PETITIONERS:

- 1. THE STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT
THIRUVANANTHAPURAM.**
 - 2. THE COMMISSIONER FOR RURAL DEVELOPMENT
L.M.S. COMPOUND, VIKAS BHAVAN P.O., THIRUVANANTHAPURAM.**
- BY GOVERNMENT PLEADER SRI. S. JAMAL**

RESPONDENT:

C.MONY.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS :-

- EXT.P1 - COPY OF THE COMPLAINT FILED BY THE RESPONDENT
BEFORE THE LOK AYUKTA.
- EXT.P2 - COPY OF G.O.(MS) NO.98/01/LSGD DATED 31.03.2001.
- EXT.P3 - COPY OF GAZETTE NOTIFICATION NO.ESTT.C3/6799/2003/CRD
DATED 15.10.2003.
- EXT.P4 - GOVERNMENT LETTER NO.5296/EB2/2004/LSGD DATED
18.10.2004 ADDRESSED TO COMMISSIONER, RURAL
DEVELOPMENT DEPARTMENT, THIRUVANANTHAPURAM.
- EXT.P5 - COPY OF THE KERALA LOK AYUKTA UNDER SECTION 12(1) IN
COMPLAINT NO.478/03 DATED 20.07.2004.

RESPONDENT'S EXHIBITS:- NIL

//TRUE COPY//

P.A. TO JUDGE

sp

K. VINOD CHANDRAN, J.

W.P(C). No.3640 of 2005

Dated this the 16th day of October, 2015.

JUDGMENT

The Government challenges the order of the Lok Ayukta at Ext.P5 on the short ground that the Lok Ayukta could not have entertained the complaint filed by the respondent, since it did not have jurisdiction to consider the issue. The claim, admittedly, was one with respect to the wrong fixation of pay, which, according to the petitioner, caused loss of substantial amounts, while computing the pensionary benefits. The lack of jurisdiction was raised before the Lok Ayukta by the Government.

2. The Lok Ayukta, considering the objection, extracted Clause (d) of Second Schedule, which is under:

"Action taken in respect of appointment, removal, pay, discipline, superannuation or other matters relating to conditions of service of public servants but, not including actions relating to claims for pension, gratuity, provident fund or to any claims which arises on retirement, removal or termination of service".

Finding that the petitioner's contention is that the wrong fixation of pay resulted in the pensionary claim, being substantially reduced the Lok Ayukta went ahead and considered the issue. It is to be specifically noticed that the jurisdiction conferred was only with respect to any claim, which arises on retirement, removal or termination of service. The challenge against the wrong fixation of pay was not one arising on retirement and hence the Lok Ayukta could not have entertained such claim. Ext.P5 is set aside for reason of lack of jurisdiction.

The writ petition is allowed.

Sd/-

**K. VINOD CHANDRAN,
JUDGE**

//True Copy//

P.A. to Judge

sp/16/10/15