

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYASHTA, 1937

RP.No. 267 of 2015 (U) IN WP(C).8761/2012

AGAINST THE ORDER/JUDGMENT IN WP(C) 8761/2012 DATED 25-07-2012

REVIEW PETITIONER(S)/WRIT PETITIONERS:-:

1. P.BALAN, AGED 60 YEARS
S/O.PONNU, 34/423, KOZIPARAMBU
VADAKKANTHARA(P.O.), PALAKKAD, PIN-678 012.

2. K.YOUSAF, AGED 61 YEARS
S/O.KOTTIAHAMMED, NEAR UMMINI SCHOOL, P.O.DHONI
PALAKKAD, PIN-678 016.

BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SRI.K.RAVI (PARIYARATH)

RESPONDENT(S)/RESPONDENTS:

1. THE DIRECTOR
OFFICE OF THE DIRECTOR OF LOCAL FUND AUDIT
4TH FLOOR, VIKAS BHAVAN.P.O.
THIRUVANANTHAPURAM - 695 001.

2. THE DEPUTY DIRECTOR,
OFFICE OF THE DEPUTY DIRECTOR OF LOCAL FUND AUDIT
DISTRICT OFFICE, NEAR MUNICIPAL TOWN HALL, PALAKKAD-1
PIN-628 001.

3. THE PALAKKAD MUNICIPALITY,
REP. BY ITS SECRETARY, PALAKKAD DISTRICT - 678 001.

4. THE DIRECTOR OF URBAN AFFAIRS,
PUBLIC OFFICE BUILDING, THIRUVANANTHAPURAM
PIN - 695 033.

R3 BY ADV. SRI.T.C.SURESH MENON, SC.,
R3 BY ADV. SRI.P.S.APPU

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON
26-05-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

A.K.JAYASANKARAN NAMBIAR, J.
.....
R.P.No.267 of 2015
in
W.P.(C).No.8761 of 2012
.....
Dated this the 26th day of May, 2015

O R D E R

The review petition has been filed by the petitioners in the writ petition on the ground that, while in the writ petition there was a specific prayer for the disbursement of retirement benefits due to the petitioners, together with interest thereon, the learned Single Judge while disposing the writ petition by judgment dated 25.07.2012, directed the respondents to pay only the entire retirement benefits due to the petitioners within a period of one month from the date of the judgment, but did not pass any order with regard to interest on the said amounts. It is borne out from the facts stated in the review petition, that when even despite the specific direction in the judgment dated 25.07.2012, the respondents did not pay the retirement benefits due to the petitioners within the time granted in the judgment, the petitioners had approached this Court through a contempt of court petition, and it was pursuant to the directions in the contempt of court case that the disbursement of retirement benefits, as directed in the judgment dated 25.07.2012, was actually effected to the

petitioners. It is seen from the statement filed on behalf of the respondents in the Contempt of Court Case that the payments were made to the petitioners belatedly, in the sense that it was made beyond the period stipulated in the judgment dated 25.07.2012. The case of the petitioner in the instant petition, however, is for a review of the judgment dated 25.07.2012 itself, to the extent it did not direct the grant of interest on the delayed payment of the retirement benefits.

2. I have heard the learned counsel for the petitioners and the learned Standing counsel for the respondent Municipality.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I am of the view that there is no scope for reviewing the judgment dated 25.07.2012. It is not in dispute that pursuant to the said judgment, on finding that the respondent Municipality had not disbursed the amounts that were directed to be disbursed within the stipulated time, the petitioners had moved this Court through a contempt of court case and it was thereafter that the respondent Municipality effected payment as directed in the judgment dated 25.07.2012. I am of the view that, inasmuch as the petitioner had effectively moved for an implementation of the directions contained in the judgment dated 25.07.2012, and thereby accepted the said judgment, which did not

grant interest to the petitioner for the delayed payment of retirement benefits by the 6th respondent, the petitioner cannot now go behind the said judgment and seek to review the same for the purposes of now getting a direction for the grant of interest. If the petitioner was aggrieved by the denial of interest, he ought to have moved this court earlier for a review of the judgement and then proceeded to seek an implementation, of the directions contained therein, by the respondents. The review petition filed by the petitioner is therefore devoid of merit and I dismiss the same.

I make it clear, however, that the dismissal of the Review Petition will not stand in the way of the petitioners approaching this Court, if so advised, with a claim for interest on the delayed payment of retirement benefits due to the petitioners for the period after the date indicated in the judgment dated 25.07.2012 and till the date of actual payment, inasmuch as the said delay occasioned by the respondent Municipality would confer a fresh cause of action on the petitioners in respect of the said relief. Subject to the said observation, the Review petition is dismissed.

A.K.JAYASANKARAN NAMBIAR
JUDGE

R.P.No.267 of 2015
in
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