IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936

WP(C).No. 4241 of 2007 (E)

PETITIONER(S):

ANANDAVALLY, W/O.VIJAYANANDAN,
POONGODE, ALATHUR, PALAKKAD DISTRICT.

BY ADVS.SRI.K.MOHANAKANNAN,
SMT.A.R.PRAVITHA.

RESPONDENT(S):
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1. **STATE OF KERALA,**
   REPRESENTED BY THE COMMISSIONER AND
   SECRETARY TO GOVERNMENT LABOUR (R) DEPARTMENT,
   SECRETARIAT, THIRUVANANTHAPURAM.

2. **THE DISTRICT EXECUTIVE OFFICER,**
   MOTOR TRANSPORT WORKERS' WELFARE FUND BOARD,
   PALAKKAD.

3. **THE TAHSILDAR, ALATHUR,**
   PALAKKAD DISTRICT.

4. **THE SUB TREASURY OFFICER,**
   ALATHUR.

R1, R3 & R4 BY GOVT. PLEADER SRI.V.K. RAFEEQ.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 4241 of 2007 (E)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 COPY OF THE JUDGMENT DATED IN O.P. NO. 13035/1994 OF THIS HONOURABLE COURT.

EXT.P2 COPY OF THE ORDER IN CMP. NO.25168/1994 DATED 13/09/1994 IN O.P. NO. 13035/1994 OF THIS HONOURABLE COURT.

EXT.P3 COPY OF THE RECEIPT PAID ON 25/10/2004 OBTAINED FROM THE TAHSILDAR, ALATHUR.

EXT.P4 COPY OF THE ORDER NO.D-19/94-95/KMT/WWF DATED 29/11/2004 ISSUED BY THE 3RD RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

K. VINOD CHANDRAN, J

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W.P(C) No. 4241 of 2007

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Dated this the 29th day of January, 2015

J U D G M E N T

The petitioner is aggrieved with the denial of interest, for amounts directed to be refunded, as per the orders in appeal, filed under the Motor Transport Workers Welfare Fund Act, 1985. The petitioner was proceeded with under the Act, for assessment and the petitioner raised a contention of no liability at all under the Act.

2. The assessment order was challenged in appeal and the petitioner was before this Court challenging the recovery attempted, while the appeal was pending. This Court, by Ext.P1, directed deposit of Rs.18,000/- as a condition, to keep in abeyance the recovery. It was also directed that the appeal would be disposed of expeditiously. The petitioner though did not pay the amounts within the time stipulated in Ext.P1, sought for extension which was granted as per Ext.P2 and made the deposit as per Ext.P3.

3. Subsequently the appeal stands allowed by the appellate authority on 14.06.1996, pursuant to which the

petitioner was issued with a refund. But, however, only by Ext.P4 in 2004. While refunding the amounts, the Government had also adjusted Rs.857/- being dues under the Kerala Revenue Recovery Act, 1968. The petitioner claims refund of the said amount as also the interest for the amounts deposited.

4. There is no dispute that the appeal filed against the assessment order was allowed. The amounts deposited were only in consequence of the directions issued by this Court. When the petitioner's liability itself has been found to be non-existing, by the appellate authority, no amounts should have been retained by the Government, under the guise of collection charges. The collection charges, if any, levied by the revenue authorities, is for the measure taken for expeditious recovery of amounts as sought for, by the Motor Transport Workers Welfare Fund Board, who have been notified under the Revenue Recovery Act. In the present case, the Board had issued a wrong requisition and it is the Board's liability to make good the collection charges. In such circumstance, collection charges retained by the Revenue authority of Rs.857/- shall be refunded to the petitioner by the Motor Transport Workers Welfare Fund Board, which is

represented in the present proceedings, by the 2nd respondent.

5. With respect to the claim for interest, the amounts were deposited only on the basis of an assessment order, which has been set aside in appeal. On refund being ordered, definitely, the petitioner would be entitled to the interest, as due under the Act, on the defaulted dues. The Act levies an interest of 9% on the defaulters, and the petitioner would be entitled to interest at that rate. However, though the appeal itself was allowed in the year 1996, an application for refund was filed only on 20.04.2004. The amounts are said to have been refunded, as indicated in Ext.P4 on 31.03.2006. In such circumstance, the petitioner would be entitled for 9% interest from 20.04.2004 to 31.03.2006. The said amount shall also be computed and paid to the petitioner along with the collection charges forfeited by the revenue recovery authorities by the 2nd respondent, within a period of three months from the date of receipt of a copy of this judgment.

Writ petition allowed. No costs.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

jma //true copy//

P.A to Judge