

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 25TH DAY OF MAY 2015/4TH JYAISHTA, 1937

WP(C).No. 1177 of 2012 (V)

PETITIONER:

V.DAMODARAN, AGED 63 YEARS
CHARGEMAN (RETIRED)
KERALA STATE ROAD TRANSPORT CORPORATION
THAMARASSERY DEPOT, KOZHIKODE DISTRICT
RESIDING AT VATAKKEYIL HOUSE, P.O. KIZHAKKOTH
(VIA) KODUVALLY, KOZHIKODE-673 572.

BY ADV. SMT.K.R.DEEPA

RESPONDENTS:

1. KERALA STATE ROAD TRANSPORT CORPORATION
REPRESENTED BY ITS MANAGING DIRECTOR
TRANSPORT BHAVAN, FORT, THIRUVANANTHAPURAM.695001

2. ASSISTANT TRANSPORT OFFICER
KERALA STATE ROAD TRANSPORT CORPORATION
THAMARASSERY, KOZHIKODE.671501

3. KERALA STATE ROAD TRANSPORT WORKER'S
CO-OPERATIVE SOCIETY LTD.
T-133, REPRESENTED BY ITS SECRETARY, THAMPANOR
THIRUVANANTHAPURAM. 695001

R1&R2 BY ADV.DEEPAK

R3 BY ADV. SRI.N.UNNIKRISHNAN,SC KSTW CO.OP SOCIET

R BY SRI.N.UNNIKRISHNAN,SC KSTW CO.OP SOCIET

R BY SRI.BABU JOSEPH KURUVATHAZHA,SC,KSRTC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
25-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

RKC

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: TRUE COPY OF THE IDENTITY CARD ISSUED TO THE PETITIONER BY KERALA STATE ROAD TRANSPORT WORKER'S CO-OPERATIVE SOCIETY.

EXHIBIT P2: TRUE COPIES OF THE PAY SLIPS AND CERTIFICATES WHICH SHOWS THE FULL PAYMENT OF THE LOAN AMOUNT BY THE PETITIONER.

EXHIBIT P3: TRUE COPIES OF THE PAY SLIPS WITHOUT RECOVERY ISSUED TO THE PETITIONER.

EXHIBIT P4: TRUE COPY OF THE COMMUNICATION ISSUED BY 3RD RESPONDENT TO THE 2ND RESPONDENT DATED 04-01-2006 RECEIVED BY THE PETITIONER.

EXHIBIT P5: TRUE COPY OF THE REPRESENTATION MADE BY PETITIONER TO THE 1ST RESPONDENT.

EXHIBIT P6: TRUE COPY OF THE JUDGMENT DATED 15-10-2005 IN WPC. 29058/2005 OF THIS HONOURABLE COURT.

EXHIBIT P7: TRUE COPY OF THE JUDGMENT WPC. 8423/2006 DATED 21-03-2006.

EXHIBIT P8: TRUE COPY OF THE NOTICE ISSUED FROM THE 3RD RESPONDENT DATED 22-08-2011.

EXHIBIT P9: TRUE COPY OF THE REPLY SENT TO THE 3RD RESPONDENT SOCIETY, DATED 10-10-2011.

EXHIBIT P10(a): TRUE COPY OF THE RECEIPT DATED 05-05-76.

EXHIBIT P10(b): TRUE COPY OF THE RECEIPTS DATED 27-09-76.

EXHIBIT P10(c): TRUE COPY OF THE RECEIPTS DATED 09-09-80.

EXHIBIT P10(d): TRUE COPY OF THE RECEIPT DATED 21-02-83.

EXHIBIT P10(e): TRUE COPY OF THE RECEIPT DATED 03-01-83.

EXHIBIT P10(f): TRUE COPY OF THE RECEIPT DATED 20-03-86.

EXHIBIT P10(g): TRUE COPY OF THE RECEIPT DATED 15-03-89.

EXHIBIT P10(h): TRUE COPY OF THE RECEIPT DATED 03-02-1992.

EXHIBIT P10(i): TRUE COPY OF THE RECEIPT DATED 06-08-92.

EXHIBIT P10(j): TRUE COPY OF THE RECEIPT DATED 06-08-92.

EXHIBIT P10(k): TRUE COPY OF THE RECEIPT DATED 12-06-96.

EXHIBIT P10(l): TRUE COPY OF THE RECEIPT DATED 19-07-99.

EXHIBIT P11: TRUE COPY THE REPRESENTATION MADE BY THE PETITIONER TO THE 1ST RESPONDENT DATED 11-11-2011.

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3RD RESPONDENTS' EXHIBITS

R3(A) : COPY OF STATEMENT OF ACCOUNTS IN RESPECT OF LOAN
NO.BAL.37902

R3(B) : COPY OF LETTER NO.13/06-07 DT.2.5.06

R3(C) : COPY OF JUDGMENT DT.5.4.02 IN O.P.NO.37952/01

R3(D) : COPY OF JUDGMENT DT.12.12.06 IN W.A.NO.2060/06

R3(E) : COPY OF JUDGMENT DT.14.2.07 IN R.P.NO.119/07 (A) IN
W.A.NO.2060/06

R3(F) : COPY OF JUDGMENT DT.13.11.09 IN WPC NO.21285/06

RKC

TRUE COPY

PA TO JUDGE

P.V.ASHA, J.,

W.P.(C) No.1177 of 2012

Dated this the 25th day of May, 2015

JUDGMENT

The petitioner is a retired employee of K.S.R.T.C. He had availed a loan from the 3rd respondent Co-operative Society to the tune of ₹45,000/-, in the year 1999. The petitioner has produced Ext.P2 series in order to show that the monthly instalments due towards the loan amount was being recovered from his salary from time to time at the rate of ₹1,465/- and the same was closed by 42 instalments in January 2003. He has also produced Ext.P3 series of pay slips in order to show that there was no recovery for the period from February 2003 onwards, till his retirement on 31.5.2003.

2. On receipt of a communication from the 3rd respondent, directing the petitioner to pay a sum of ₹13,712/- towards the arrears of loan No.37902 availed by him, the petitioner approached the first respondent-K.S.R.T.C initially, and thereafter filed W.P.(C) No.8423 of 2006, praying for a direction to the K.S.R.T.C to effect the payment to the society, along with

interest due. The writ petition was disposed of as per Ext.P7 judgment on 21.3.2006 directing the K.S.R.T.C to consider the representation of the petitioner in the matter of recovery towards the loan amount, within a period of six weeks. It was further directed that in case the 1st respondent-K.S.R.T.C finds that there was delay in the matter of remitting the amounts deducted from the salary of the petitioner to the 3rd respondent society leading to escalation of the petitioner's liability, it will be the obligation of the Corporation to make good the same. The proceedings for recovery of the arrears initiated against the petitioner by the 3rd respondent was kept in abeyance pending decision on the representation. But the K.S.R.T.C did not make any payment even thereafter. As per Ext.P8 letter dated 22.8.2011, the petitioner received a communication saying that the amount due in his loan amount is not so far remitted by the K.S.R.T.C. This was followed by another communication dated 14.10.2011-Ext.P9 from the society informing that the arrears due from him in his loan No.37902 was so far not remitted, even though another loan

account in which the petitioner is the guarantor was closed, pursuant to the judgment in W.P.(C) No.8351 of 2009 filed by him.

3. The third respondent society has filed a counter affidavit pointing out that the K.S.R.T.C has not remitted the amount due even now, despite various judgments of this Court pointing out the responsibility of the K.S.R.T.C to remit the amount recovered from the salary of its employees. In Ext.R3(c) judgment dated 5.4.2002 in O.P.No.37952 of 2001, this Court held that the omission of the first respondent-K.S.R.T.C to pay the amount deducted from the salary of its employees amounts to an offence under section 94(5) of the Kerala Co-operative Societies Act. Under section 37 of the Act any amount deducted shall be made over to the concerned Co-operative society within a period of 7 days. Despite the directions of this Court in Ext.P7 judgment and in a series of cases as in Exts.R3(c), and R3(d) judgment in W.A.No.2060 of 2006, K.S.R.T.C did not care to make any payment in the case of the petitioner.

4. Heard learned counsel on either side. Sri.N.Unnikrishnan, the learned counsel appearing for the 3rd respondent society pointed out that a sum of ₹27,708/- is due as on 21.5.2015 in the loan account of the petitioner. The above amount is to be paid by the K.S.R.T.C.

5. There is no justifiable reason on the part of the first respondent Corporation in not remitting the amount recovered from the salary of the petitioner during the period from 1999 to January 2003, even after years of the retirement of the petitioner.

6. The petitioner points out that he is unable to get relieved of the membership of the society on account of the inaction of the 1st respondent in not remitting the amount.

In the circumstances of the case, there will be a direction to the K.S.R.T.C to remit the entire arrears due in the loan account No.37902 of the petitioner to the 3rd respondent society within a period of two months. The 3rd respondent society shall relieve the petitioner from the membership of the society, immediately on

W.P.(C) No.1177 of 2012

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receipt of the amount from the K.S.R.T.C., and grant the benefits due to the petitioner as per his eligibility.

This Writ Petition is allowed accordingly.

sd/-
P.V.ASHA,
JUDGE.

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