

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.T.SANKARAN

&

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

WA.No. 487 of 2015 () IN WP(C).5121/2011

AGAINST THE JUDGMENT IN WP(C) 5121/2011 of HIGH COURT OF
KERALA, DATED 19-01-2015.

APPELLANT(S)/PETITIONERS:

1. THE PRESIDENT,
THE KALAMACHAL HANDLOOM WEAVERS'
CO-OPERATIVE SOCIETY LTD., NO.3704, KALAMACHAL P.O.,
VAMANAPURAM, THIRUVANANTHAPURAM.

2. THE KALAMACHAL HANDLOOM
WEAVERS' CO-OPERATIVE SOCIETY LTD., NO.3704,
KALAMACHAL P.O., VAMANAPURAM, THIRUVANANTHAPURAM.
REPRESENTED BY THE SECRETARY.

BY ADVS.SRI.P.K.VIJAYAMOHANAN
SRI.GILBERT GEORGE CORREYA
SRI.NISHIL.P.S.

RESPONDENT(S)/RESPONDENT:

SRI.B.VISWAMBHARAN,
KATTAKKARA PUTHANVEEDU, POIKAMUKKU P.O.,
MUDAKKAL, 690 051, THIRUVANANTHAPURAM.

BY SRI.GOPAKUMAR R.THALIYAL

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
20-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.T. SANKARAN & K. HARILAL, JJ.

W.A.No. 487 of 2015

Dated this the 20th day of March, 2015

JUDGMENT

Sankaran, J.

The respondent entered in the service of the Handloom Weavers' Co-operative Society as Driver on 2/12/1993 in the leave vacancy of a Driver-cum-Salesman. The respondent worked as Driver up to 10/5/1996. Even though the vehicle was sold on 10/5/1996, the respondent was allowed to continue to work on different posts, including that of Watchman. The Committee, as per resolution dated 10/12/1997, decided to appoint the respondent as Watcher, with effect from 1/12/1997. But that resolution was turned down due to non-approval of staff pattern. The Committee, thereafter, decided to remove the

respondent from service, as per resolution dated 4/6/1999 and further decided to re-employ him as and when a staff pattern came into effect. As per resolution dated 9/6/1999, the Committee decided to appoint the respondent as Watcher on daily wage basis on a consolidated pay of ₹1,800/- per month. The respondent was, thereafter, appointed in the permanent post as per resolution dated 2/2/2001. The Management terminated the service of the respondent as per resolution dated 26/10/2002. No compensation was paid to him.

2. An industrial dispute was raised. The Industrial Tribunal, Kollam, as per the award dated 4/11/2009, directed reinstatement of the workman with full back wages, continuity of service and all other eligible benefits in the permanent post of Watchman.

3. The Management challenged the award in W.P.(C) No.5121 of 2011, only in so far as the award related to the payment of back wages. The respondent was reinstated in service and later, he

retired from service. The learned single Judge dismissed the writ petition, as per the judgment dated 19/1/2015, which is under challenge in this Writ Appeal.

4. When the Writ Appeal came up for hearing, the matter was referred for mediation. The parties arrived at a settlement and a Memorandum of Agreement dated 16/3/2015 was executed and signed by them. The terms of the Memorandum of Agreement read as follows:

“1. The appellants and respondents in the above Writ Appeal have amicably settled the entire dispute between the parties as detailed hereunder:

2. The appellants agree to pay of ₹2,15,000/- (Rupees two lakhs fifteen thousand only) as full and final settlement of the entire disputes between the parties as on today. The respondent also agrees the same.

3. Hence, both parties agree that

the above said amounts will be paid by the appellants in four instalments without interest and the first instalment of ₹65,000/- (Rupees sixty five thousand only) will be paid by the appellants to the respondent on or before 30/4/2015 by account pay cheque in the name of the respondent. All the other three instalments will be at the rate of ₹50,000/- each and the same will be paid in instalments by the appellants to the respondent respectively on or before 30/9/2015, 31/12/2015 and 30/4/2016 by means of account payee cheque in favour of the respondent.

4. If the appellants commit any default of any one of the payment of the instalments as aforesaid, the respondent will be at liberty to recover the entire balance amount together with 12% interest in terms till the full and final realization of the same.

5. Appellants also admit that the respondent will be entitled to get back ₹5,000/- (Rupees five thousand only)

together with the accrued interest in the fixed deposit made by the respondent with the appellant society subject to the Audit objection during financial year 2013-14.

6. In view of the above settlement, the respondent also agrees that the Claim Petition No.10/2014 filed by him as applicant (workman) before the Hon'ble Labour Court, Kollam, will be “not pressed” by the respondent.

7. Both the parties also agree that the respondent will not be entitled to claim any further amount such as gratuity, P.F. and wages salary for leave surrender and such other benefits from the appellants.

8. In view of the aforesaid agreement, both parties also agree to withdraw all pending cases in all the courts in connection with the arising out of the industrial dispute between the appellants and respondent, on full and final satisfaction of the entire amount as

per this settlement.”

In view of the settlement of the dispute, this Writ Appeal is disposed of in terms of the settlement, in modification of the award passed by the Industrial Tribunal.

Sd/-

(K.T. SANKARAN, JUDGE)

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge