

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

WP(C) .NO. 2087 OF 2012 (I)

PETITIONER:

DAISY P.T., AGED 47 YEARS,
SENIOR ASSISTANT, KERALA STATE ELECTRICITY BOARD,
ELECTRICAL DIVISION EAST, VYDYUTHI BHAVANAM, THRISSUR.

BY ADVS.DR.K.P.SATHEESAN

SRI.M.R.JAYAPRASAD
SRI.P.MOHANDAS (ERNAKULAM)
SRI.ANOOP.V.NAIR

RESPONDENT(S) :

1. KERALA STATE ELECTRICITY BOARD
REPRESENTED BY ITS SECRETARY, VYDYUTHI BHAVAN, PATTOM,
THIRUVANANTHAPURAM-695004.
2. THE CHIEF ENGINEER (H.R.M.),
KERALA STATE ELECTRICITY BOARD, VYDYUTHI BHAVAN,
PATTOM, THIRUVANANTHAPURAM-695004.
3. KERALA WATER AUTHORITY,
REPRESENTED BY ITS MANAGING DIRECTOR, JALA BHAVAN,
THIRUVANANTHAPURAM-695033.

R3 BY ADV. SRI.MILLU DANDAPANI, SC, KERALA WATER AUTHORITY
R BY SRI.K.S.ANIL, SC, KSEB
R BY SRI.M.DINESH, SC, KWA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1: TRUE COPY OF THE BOARD ORDER B.O.(FB)NO. 2574/2005 (ESTT. IV/RECKONING SERVICE/2005) DATED 01-09-2005.
- EXHIBIT P2: TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE ACCOUNTS OFFICER, PENSION AUTHORIZATION, K.S.E.B. DATED 10-02-2006.
- EXHIBIT P3: TRUE COPY OF THE COVERING LETTE OF THE EXECUTIVE ENGINEER, ELECTRICAL DIVISION, SHORNUR DATED 06-03-2006.
- EXHIBIT P4: TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 01-11-2007.
- EXHIBIT P5: TRUE COPY OF THE BOARD ORDER DTD 12-02-2008.
- EXHIBIT P6: TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER DATED 03-02-2011.
- EXHIBIT P7: TRUE COPY OF THE LETTER NO. KWA/HO/E10/2495/2011 DATED 23-08-2011 GIVEN BY THE 3RD RESPONDENT.
- EXHIBIT P8: TRUE COPY OF THE GOVERNMENT ORDER G.O.(P)NO. 703/02/FIN. DATED 12-11-2002.
- EXHIBIT P9: TRUE COPY OF THE GOVERNMENT ORDER G.O.(P)NO. 651/03/FIN. DATED 06-12-2003.
- EXHIBIT P10: TRUE COPY OF THE GOVERNMENT ORDER G.O.(P)NO. 193/2004/FIN. DATED 20-04-2004.
- EXHIBIT P11: TRUE COPY OF THE ORDER NO. KWA/JB/E3/5002/2006 DATED 09-07-2009.

RESPONDENTS' EXHIBITS:

//TRUE COPY//

P.A. TO JUDGE

DST

K. HARILAL, J.

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W.P. (C) No. 2087 of 2012

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Dated this the 20th day of November, 2015

J U D G M E N T

The petitioner is presently working as Senior Assistant in the Kerala State Electricity Board, Electrical Sub Division, Thrissur and she joined in service of the Kerala Electricity Board on 17.01.1994 as per the advice of the Public Service Commission.

2. Prior to joining in Kerala State Electricity Board, the petitioner was working as Lower Division Clerk in Kerala Water Authority. She was appointed as Lower Division Clerk in Kerala Water Authority on 18.04.1992 as advised by the Public Service Commission and she continued in Kerala Water Authority up to 17.01.1994 and on that day itself, she joined the Kerala State Electricity Board, without any break of service. As per Ext.P1, the 1st respondent decided to reckon the

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service rendered by a Board employee in State Government Department/Quasi Government organisations prior to his appointment/absorption in K.S.E.B., as qualifying service to sanction pensionary benefits in the Board.

3. On the basis of Ext.P1 Board order, the petitioner submitted a representation to the 2nd respondent requesting to reckon her previous service in the Kerala Water Authority for computing pension and weightage. Subsequently, the 1st respondent issued a clarification to Ext.P1. As per the said clarification, it is stated that an employee having qualifying service of less than five years will be eligible for service gratuity calculated at the rate of one month's pay for each year of qualifying service. For qualifying service less than ten years, one is not entitled for pension, but only service gratuity and D.C.R.G., based on the length of qualifying service. The pro-rata pension liability is to be remitted in

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lump sum as one time payment and is to be determined with reference to the computation table laid down in Part-III of K.S.R.

4. Thereupon, the petitioner submitted Ext.P6 representation to the 3rd respondent, requesting to remit the pro-rata pension liability to the Kerala State Electricity Boards Staff Pension Fund. Now the 3rd respondent has sent Ext.P7 letter to the petitioner, stating that there is no order/rule to reckon the prior service in a public Sector Undertaking along with State Service and vice versa as well as Public Sector Undertaking for pension. Hence, the request for remittance of pro-rata pension contribution cannot be considered at present.

5. According to the petitioner, non-remittance of pro-rata pension contribution to the 1st respondent is arbitrary, illegal and warranting interference of this Court under Article 226 of the Constitution of India.

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Hence, the petitioner prayed for issuing a writ of certiorari or such order or direction, calling for all records leading to Ext.P7 and to quash Ext.P7 and also prayed for directing the 3rd respondent to remit the pro-rata pension contribution of the petitioner to the Kerala State Electricity Boards Staff Pension Fund.

6. Heard the learned counsel for the petitioner and learned counsel for the respondents.

7. Learned counsel for the petitioner cited the decision of this Court in ***Mohammed Basheer Vs. State of Kerala and Ors.*** [2015(1)ILR 10] and submits that the issue involved in this Writ Petition is considered by the Division Bench of this Court and accepted the contention raised in this Writ Petition. Learned counsel for the petitioner further drew my attention to paragraph 17 of the above decision. Paragraph 17 of the above decision reads as follows:

"17. The Government issued GO (P) No.

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369/87 / Fin. dated 31/03/1987, GO (P) No. 383/89 / Fin. dated 29/08/1989 and GO (P) No. 228/2001 / Fin. dated 02/02/2001 for reckoning the services rendered in Government of India Departments / Central Autonomous Bodies / State Government Departments / State Autonomous Bodies / Public Sector Undertakings etc. for pensionary benefits consequent on permanent absorption in State Government Departments / State Autonomous Bodies and vice versa. This Court on considering these orders found in the judgment in OP No. 10540 of 1998 that the employees who joined State Government Service after serving in State Autonomous Bodies / Public Sector Undertakings were entitled to count their such service along with their service under the Government as qualifying for pension. Also found that the KSRTC would come under the sweep of the expression "State Autonomous Bodies / Public Sector Undertakings". Applying the same analogy, the Khadi and Village Industries Board also would come under the sweep of the expression "State Autonomous Bodies / Public Sector Undertakings". The judgment rendered by this Court in OP No. 10540 of 1998 has become final and implemented. This Court again considered the question as to whether the past service put in by a Government employee in the KSRTC would qualify for pension in WP (C) No. 6536 of 2007. In that case also, following the judgment in OP No. 10540 of 1998, this Court found that the petitioner therein was entitled to count his past service in the KSRTC

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as qualifying service for the purpose of pensionary benefits. That judgment also has become final and implemented. Therefore, in the light of the said three Government Orders and the two judgments of this Court, the service put in by the petitioners in the KSRTC and in the Khadi and Village Industries Board can be reckoned as service qualifying for computing pensionary benefits."

8. Going by the above decision, it is seen that as submitted by the learned counsel for the petitioner, the issue involved in this Writ Petition is covered by the above decision by making a declaration that an employee resigning his job in State Government or Autonomous Bodies to take up employment in State Government/State Autonomous Bodies/Public Sector Undertakings are entitled to get reckoned the services rendered in Government of India Department/Central Autonomous Bodies/State Government Departments/State Autonomous Bodies/ Public Sector Undertakings for pensionary benefits consequent on permanent absorption in the State Government Department/State

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Autonomous Body and vice versa. I find that the issue involved in this Writ Petition will stand covered by the above decision of the Division Bench of this Court.

9. Consequently, Ext.P7 will stand quashed and the 3rd respondent is directed to remit the pro-rata pension contribution in respect of the service rendered by the petitioner to the Kerala State Electricity Boards Staff Pension Fund at the earliest, within a period of three months from the date of receipt of a copy of this judgment.

This Writ Petition is disposed of accordingly.

Sd/-
K. HARILAL,
JUDGE

DST

//True copy//

P.A. To Judge