

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K. SURENDRA MOHAN

&

THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

MONDAY, THE 30TH DAY OF NOVEMBER 2015/9TH AGRAHAYANA, 1937

WA.No. 1584 of 2015 () IN WP(C).37199/2004

AGAINST THE JUDGMENT IN WP(C) 37199/2004 of HIGH COURT OF KERALA
DATED 27-02-2015

APPELLANT/PETITIONER:

MOHANA KAMMATH
S/O. LAKSHMANA KAMMATH, PRASHANTH SADAN, ALSRAI
HOSDURG P.O., KANHANGAD, KASARAGOD DISTRICT.

BY ADV. SRI. SURESH KUMAR KODOTH

RESPONDENTS/RESPONDENTS:

1. THE KOTACHERY SERVICE CO-OPERATIVE BANK LTD.NO. LL.156
REPRESENTED BY ITS SECRETARY
OFFICE OF THE KOTACHERY SERVICE CO-OPERATIVE BANK LTD.156
HOSDURG, KANHANGAD P.O., KASARAGOD DISTRICT-671315.
2. H.K.JANARDHANAN
BILL COLLECTOR
THE KOTACHERY SERVICE CO-OPERATIVE BANK LTD.156
HOSDURG, KANHANGAD P.O., KASARAGOD-671315.
3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL)
KASARAGOD-671121.
4. THE STATE OF KERALA
REPRESENTED BY ITS SECRETARY, LABOUR DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.

R1 BY ADV. SRI.P.K.VIJAYAMOHANAN
GOVERNMENT PLEADER SRI. JOSEPH GEORGE

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 30-11-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

smv

**K. SURENDRA MOHAN
&
SHAJI P. CHALY, JJ.**

W.A. No.1584 of 2015

Dated this the 30th day of November, 2015

JUDGMENT

Surendra Mohan,J.

The petitioner in W.P.(C) No.37199 of 2004 is in appeal, challenging the judgment of the learned Single Judge dismissing the writ petition. The writ petition was filed by the petitioner challenging Ext.P6 award of the Industrial Tribunal, Kozhikode in I.D. No.33 of 2002.

2. The petitioner was a Pigmy Deposit Collector in the 1st respondent bank. He claimed absorption and regularization in the service of the bank. According to the petitioner, he was appointed as a Pigmy Deposit Collector on 07.04.1970 and there was a sanctioned post of Bill Collector as per the staff pattern of the bank, to which the petitioner could have been appointed, permanently. According to the management, to the sanctioned post of Bill Collector, another person had been appointed and on his death, another employee was appointed by promotion and there was no vacancy in the post of Bill Collector. It was further

contended by the Bank that, there were three Pigmy Deposit Collectors in the bank and that they were not regular employees of the bank. The evidence in the case shows that, the persons engaged as Pigmy Deposit Collectors were being paid commission on the deposit collected. There was no employer-employee relationship nor was any supervisory control in existence.

3. In view of the above, the Industrial Tribunal rejected the plea of the petitioner for the grant of regularization. The petitioner had challenged the award of the Industrial Tribunal before the Single Bench. The learned Single Judge considered the contentions of the petitioner in the light of the dictum of the Apex Court in **Indian Banks Association v. Workmen of Syndicate Bank** [(2001) 3 SCC 36] and held that there were no grounds to interfere with the award of the Industrial Tribunal.

4. We have heard the learned counsel appearing for the petitioner Sri.Suresh Kumar Kodoth as well as learned counsel Sri.P.K.Vijayamohan who appears for the 1st respondent.

5. Absolutely no material or evidence has placed before us, to justify a conclusion that the judgment of the learned Single

Judge warrants interference in appeal. As rightly pointed out by the learned counsel for the 1st respondent, the petitioner though aged 68 years, has been continuing to work as a Pigmy Deposit Collector for the reason that, they are entitled to work until they attained the age of 70 years. The Government has streamlined a special scheme as well as a welfare fund for such Pigmy Deposit Collectors. The learned Single Judge has noted that the petitioner has been given appointment after the award. It is made clear that the benefit if so granted would continue.

In view of the above, we find no grounds to admit this Writ Appeal and the same is accordingly dismissed.

Sd/-

**K. SURENDRA MOHAN
JUDGE**

Sd/-

**SHAJI P. CHALY
JUDGE**

//true copy//

P.A. to Judge

smv
03.12.2015