

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS**

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WA.No. 1246 of 2014 () IN WP(C).30533/2011

**AGAINST THE ORDER/JUDGMENT IN WP(C) 30533/2011 of HIGH COURT OF KERALA
DATED 13-11-2013**

APPELLANT(S)/2ND RESPONDENT:

**THE KERALA STATE CO-OPERATIVE EMPLOYEES PENSION BOARD
P.B. NO. 85, KALA NIVAS, KUNNUMPURAM
NEAR AYURVEDA COLLEGE, THIRUVANANTHAPURAM - 695 001
REPRESENTED BY ITS SECRETARY.**

BY ADV. SRI.K.R.SUNIL

RESPONDENT(S)/PETITIONER/RESPONDENT:

- 1. RAJAN NAIR, AGED 62 YEARS
S/O. ANANTHAN NAIR, ANATHAPURI (KUNNOTH), NANMANDA
KOZHIKODE.**
- 2. BALUSSERY REGIONAL CO-OPERATIVE BANK LIMITED
NO. F 225, BALUSSERI, KOZHIKODE-673 612
REPRESENTED BY ITS SECRETARY.**
- 3. THE ASSISTANT REGISTRAR OF CO-OPERATIVE
SOCIETIES (G), QUILANDI, KOZHIKODE - 673 305.**

**R1 BY ADV. SRI.RAJU SEBASTIAN VADAKKEKKARA
BY SR GOVERNMENT PLEADER SRI.M.K.ABOOBACKER
BY SRI.P.P.JACOB**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 25-02-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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Writ Appeal No. 1246 of 2014
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Dated this the 25th day of February, 2015

J U D G M E N T

Antony Dominic, J.

The Kerala State Co-operative Employees Pension Board has filed this appeal aggrieved by the judgment of the learned single Judge disposing of WP(C) No.30533/11, which was filed by the 1st respondent herein.

2. The 1st respondent retired from the service of the 2nd respondent Co-operative Bank on 30/6/2007 from the post of Attender. Since he stagnated in that category, he was granted higher grades. However, according to the Board, the higher grade granted were erroneous and were inadmissible. As a result, proportionate reduction was made in the last drawn pay and pension was disbursed on that basis. This led the 1st respondent to file the writ petition. The learned single Judge held that in view of the principles laid down by this Court in the judgment in ***Kunju v. Kottayam Co-operative Agricultural & Rural Development Bank Ltd.*** [2008 (4) KLT 682], the Board cannot undertake an exercise of re-fixation of pay and if at all any rectification is

necessary, the Board will have to place it before the competent authority. It is this judgment, which is under challenge.

3. We heard the learned counsel for the appellant and the learned counsel appearing for the 1st respondent.

4. Learned counsel for the appellant relied on Clause 27 of the Kerala Co-operative Societies Employees Self Financing Pension Scheme, 1994 and according to him, it was in exercise of the power conferred under Clause 27 that verification was done, when on account of the error that was find out, the rectification was effected. Clause 27 reads thus;

"27. Application for pension - (1) An employee shall submit his formal application for superannuation pension in Form appended as Annexure I to this Scheme at least one year in advance of the date of his anticipated retirement or for retiring pension as soon as may be, after the grant of permission by the appointing authority, to retire.

(2) The application under sub-paragraph (1) shall be submitted to th Chief Executive of the Society who shall scrutinise it and forward the same to the Board with relevant records and

verification certificate of Taluk/District/Regional Officers of the concerned Department.

(3) The Officers of the Pension Board shall have the power to verify the pension fund remittance, service books and pay fixation due to pay revision, promotion, awarding of time bound higher grade etc. The society shall furnish the records to the Pension Board Officers on request;

Provided that in the case of employees of the societies coming under the administrative control of the functional Registrars, Officers of Pension Board shall verify the eligibility of pension on the basis of the pay and allowances being in force in the society."

5. Reading of Clause 27 shows that the power, if at all, conferred on the authorities of the Board is only for the verification of the claim made and this provision does not recognise any power in their favour to effect any rectification of pay. It was taking note of the above that this Court in the judgment in **Kunju's case** (supra) held that if at all any rectification is warranted, the Board shall place the matter before

the competent authority and it is for the competent authority to do so. Therefore, this judgment relied on by the learned counsel does not improve the case of the Board. We do not therefore find any error in the judgment of the learned single Judge warranting interference.

Writ appeal is dismissed.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

//True Copy//

PA to Judge