

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No. 2247 of 2013 (E)

PETITIONER(S):

**R.V. GEORGE, S/O.VARKEY, AGED 58 YEARS,
RATHAPILLY HOUSE, KUPPAYACODE P.O.,
KODENCHERRY - VIA, KOZHIKODE DISTRICT,
PIN - 673 580.**

**BY ADVS.SRI.BABU JOSEPH KURUVATHAZHA,
SRI.T.K.BIJU (MANJINIKARA).**

RESPONDENT(S):

- 1. KERALA STATE ELECTRICITY BOARD,
VYDHUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM - 695 004,
REPRESENTED BY ITS SECRETARY.**
- 2. THE CHIEF ENGINEER (HUMAN RESOURCES MANAGEMENT),
K.S.E.B, PATTOM, THIRUVANANTHAPURAM - 695 004.**
- 3. THE DEPUTY CHIEF ENGINEER, K.S.E.B.,
CIVIL CIRCLE, KAKKAYAM, KOZHIKODE - 673 615.**
- 4. GOVERNMENT OF KERALA,
REPRESENTED BY ITS SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**
- 5. THE DIRECTOR OF PANCHAYATHS,
PANCHAYATH DIRECTORATE,
THIRUVANANTHAPURAM - 695 033.**

**R1 TO R3 BY ADV. SRI.K.S.ANIL, SC, KSEB.
R4 & R5 BY GOVT. PLEADER SRI.NOUSHAD THOTTATHIL.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE PROCEEDINGS NO.EB1/720/07-08/2159
DATED 07/10/2009 OF THE 3RD RESPONDENT.
- EXT.P2 COPY OF THE PROCEEDING NO.ESTT.IV/3939/07 DATED 11/03/2008
OF THE 1ST RESPONDENT.
- EXT.P3 COPY OF THE PROCEEDING NO.H3.8447/02 DATED 23/09/2003
OF THE 5TH RESPONDENT FORWARDED TO THE 4TH RESPONDENT.
- EXT.P4 COPY OF THE REPRESENTATION DATED 10/04/2008 SUBMITTED BY
THE PETITIONER BEFORE THE 4TH RESPONDENT.
- EXT.P5 COPY OF THE G.O.(RT) NO.222/2001/PD DATED 24/10/2001
ISSUED BY THE GOVERNMENT.
- EXT.P6 COPY OF THE LETTER NO.H2.8447/02 DATED 06/03/2008
FORWARDED BY THE 5TH RESPONDENT TO THE 4TH RESPONDENT.
- EXT.P7 COPY OF THE REPRESENTATION DATED 10/09/2012 SUBMITTED BY
THE PETITIONER BEFORE THE RESPONDENTS 4 AND 5.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.V.RAMAKRISHNA PILLAI, J

WPC No.2247 of 2013

Dated this the 6th day of March, 2015

JUDGMENT

The main prayer in the writ petition is for a direction to the 4th respondent State to transfer the amount deposited by the different Panchayats detailed in Ext.P3 in the Government Treasury to the account of the first respondent for disbursement of prorata pension to the petitioner.

2. The petitioner joined the service of respondents 1 to 3 as an Overseer in the year 22.8.1989 and demitted his office on 30.6.2009 while working as Assistant Engineer under the third respondent. Previous to that, the petitioner was working under different Panchayats under the Local Self Government. He rendered service as Overseer on 9.8.1977 to 21.8.1989 in different Panchayats. The first respondent as per Ext.P2 proceedings informed the third respondent that if prorata pension contribution was paid from the Panchayat

Department, the service rendered by the petitioner in different Panchayats before his entry in the service of the KSEB would also be reckoned for the purpose of pension. All the Panchayats have deposited the amount required for sanctioning and disbursing prorata pension to the petitioner in the Government Treasury as it could be seen from Ext.P3 proceedings of the 5th respondent. The 5th respondent sought permission of the 4th respondent for transferring the said amount from the Government Treasury to the account of the first respondent for sanctioning and disbursing the prorata pension to the petitioner.

3. The grievance of the petitioner is that even after the lapse of so many years, no sanction was issued by the 4th respondent to the 5th respondent for transferring the amount covered by Ext.P3 from the treasury to the account of the first respondent.

4. It is an admitted fact that prior to the entry of the petitioner in the service of the respondent Board, he was working under various Panchayats.

5. It is evident from Ext.P3 proceedings of the 5th respondent that the Panchayats have deposited the amount required for sanctioning and disbursing prorata pension to the petitioner in the Government treasury. As per Ext.P5, it is clear that the Government was pleased to order that the service rendered by the petitioner, in the Panchayat Common Service in the cadre of Overseer for the period from 9.8.1977 to 2.2.1987, would be reckoned as qualifying service solely for pensionary purpose in the Kerala State Electricity Board, by invoking Rule 159 Part I Kerala Service Rules subject to realization of pension contribution from the Panchayat concerned.

6. In the counter affidavit filed by the State, it is stated that Exts.P3 and P4 issued by respondents 4 and 5 are not in rhyme with Rule 20 Part III KSR. However, this position is settled by the decision of this Court in ***Mohammed Basheer v State of Kerala and others*** (2014 (4) KHC 658 (DB) where a similar issue was considered. In that case, the issue for consideration was whether the petitioner's, who were initially appointed in

the KSRTC and in the Khadi and Village Industries Board respectively on the advise of the Kerala Public Service Commission, service could be reckoned for the purpose of pension. The Court observed that the employees who joined the State Government after serving in State Autonomous bodies/Public Sector Undertakings are entitled to count their service along with their service under the Government for pension.

7. Since the position is now settled and covered in favour of the petitioner, this Court is of the view that the petitioner is entitled to succeed.

In the result, this writ petition is allowed. The 4th and 5th respondents are directed to transfer the amount deposited by the different Panchayats detailed in Ext.P3 for the purpose of disbursement of prorata pension to the petitioner together with interest, without any delay.

**sd/- A.V.RAMAKRISHNA PILLAI
JUDGE**

CSS/

true copy

P.S.TO JUDGE