

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 11629 of 2006 (H)

PETITIONER(S):

**H.R & C.E, EMPLOYEES UNION, CIVIL
STATION, KOZHIKODE, REPRESENTED BY ITS SECRETARY
SRI.PRAMOD KUMAR K.K**

BY ADV. SMT.G.SUMA

RESPONDENT(S):

- 1. STATE OF KERALA REPRESENTED BY THE
PRINCIPAL SECRETARY, REVENUE (DEVASWOM) DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE DISTRICT TREASURY OFFICER,
KOZHIKODE.**
- 3. SRI.MOHAN, ASSISTANT TREASURY OFFICER,
DISTRICT TREASURY OFFICE, KOZHIKODE.**
- 4. SMT.USHA, JUNIOR SUPERINTENDENT,
DISRICT TREASURY OFFICE, KOZHIKODE.**
- 5. SMT.DIVYA, L.D ACCOUNTANT, DISTRICT
TREASURY OFFICE, KOZHIKODE.**
- 6. THE COMMISSIONER, HR & CE
(ADMINISTRATION) DEPARTMENT, KOZHIKODE.**

**R1, 2,3 BY ADV. GOVERNMENT PLEADER SRI.V.K.RAFEEK
ADV. SRI.K.MOHANAKANNAN,SC,MALABAR DEVASWOM
ADV. SRI.R.LAKSHMI NARAYANAN,SC,MALABAR DEVA
ADV. SRI.KRISHNAKUMAR.S, SC, MALABAR DEVASWOM BOARD
ADV. SRI.K.R.SUNIL, SC, MALABAR DEVASWOM BOARD**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10-04-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1. COPY OF THE GOVT. ORDER DTD.13.12.2005.
- P2. COPY OF THE OBJECTIONS AND REPLY IN THE BILL DATED 30.2.2006.
- P3. COPY OF THE SLIP OF PAPER DTD.31.3.2006.
- P4. COPY OF THE OBJECTION RESUBMITTED BEFORE 5 P.M. ON 31.3.2006.
- P5. COPY OF THE PETITION DTD.1.4.2006 SENT BY SURESH BABU.M.T., LIAISON OFFICER TO R6.
- P6. COPY OF THE LETTER SENT BY COMMISSIONER HR&CE(ADMN) DEPARTMENT THE 6TH RESPONDENT DTD.1.4.2006 TO R1.
- P7. COPY OF THE LETTER SENT BY DO. DO. TO THE DO.DO. DTD.7.4.2006.
- P8. COPY OF THE COMPLAINT DATED 1.4.206 OF THE NGO ASSOCIATION TO THE DIRECTOR, TREASURY.
- P8A. COPY OF THE REQUEST DTD.15.7.2006.
- P9. COPY OF THE LETTER DTD.12.7.2006.
- P10. COPY OF THE LETTER OF THE COMMISSIONER TO THE DISTRICT TREASURY OFFICER DATED 14.7.2006.
- P11. COPY OF THE BILL BOOK SERIAL NOS.16 TO 36.

RESPONDENT(S)' EXHIBITS:

NIL.

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///True copy///

P.S. to Judge

ALEXANDER THOMAS, J.

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W.P.(C).No. 11629 of 2006

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Dated this the 10th day of April, 2015

J U D G M E N T

This Writ Petition was instituted as early as on 21.4.2006. The grievances projected in this Writ Petition are in relation to the travelling allowance claim of about 25 incumbents of the Hindu Religious and Charitable Endowment Department of the Government of Kerala, as referred to in page 3 of the Writ Petition. Though the grievance is fully individual centric and such grievances could be championed only by persons, who are directly aggrieved by the non-grant of such travelling allowance, none of the said incumbents are petitioners in this Writ Petition. The petitioner in this Writ Petition is styled as “H.R. & C.E. Employees Union, Civil Station, Kozhikode”.

2. The prayers in the Writ Petition are as follows:

- “i) Issue a writ of mandamus or any appropriate order or direction directing respondents 1st and 2nd pass the bill of HR & CE establishment for Rs. 56,929/- as on 31.3.2006 and to disburse the amount;
- ii) To issue a direction to the 1st respondent to order an enquiry into the circumstances which led to the lapse of the amount

and to take stringent action against the persons responsible;

- iii) To issue a writ of Mandamus commanding the 1st respondent to dispose off Exhibit-P7 request of the 6th respondent, expeditiously and issue a Special Order directing disbursement of the establishment bill of the HR & CE Department for Rs.56,929/- as on 31.03.2006, within two weeks from today;
- iv) To issue such other orders, directions or writs as may be prayed for and that this Hon'ble Court may deem fit under the facts and circumstances of the case."

3. The 6th respondent Commissioner, H.R. & C.E. Department and the 2nd respondent-District Treasury Officer, Kozhikode, have filed separate affidavits. The case set up in the counter affidavit filed by the 6th respondent-Commissioner of the H.R. Department, filed through the Government Pleader, is vindicating the averments of the Writ Petition and putting blame on the officials concerned of the District Treasury office, Kozhikode, viz., respondents 3, 4 and 5. The 2nd respondent-District Treasury Officer has filed a counter affidavit, rebutting all these allegations raised against the officials of the Treasury Department and putting the blame on the officials concerned of the H.R. & C.E. Department for putting up ineligible T.A. claims. So essentially the pleadings of the official respondents are contradicting to each other as the 6th respondent, as one of the main official respondents, is vindicating the claims of the incumbents concerned of his Department, whereas

the 2nd respondent–District Treasury Officer is strongly opposing the claims of the incumbents for T.A. claims based on factual grounds. As resolution of disputed questions of facts is involved in this case and since the grievances are championed not by the incumbents, who are directly aggrieved by the impugned action, but by their union, this Court is of the considered opinion that it is neither advisable nor expedient to adjudicate the rival claims on the merits of the matter, especially on the disputes involving disputed questions of fact. Moreover, nine years have passed since the filing of the Writ Petition and neither the writ petitioner nor the official respondents have appraised this Court about any subsequent development that has happened in the matter.

4. In this view of the matter, it is ordered that if either the writ petitioner or any of the directly aggrieved incumbents concerned have subsisting grievance, it is open to them to submit detailed representation in that regard through the 6th respondent Commissioner, H.R. & C.E. Department and the same may be submitted to the 1st respondent–Principal Secretary, Revenue (Devaswom) Department, Government of Kerala. The remarks of the 6th respondent–Commissioner should also be offered in that regard

to the 1st respondent. After going through the representation and the remarks of the 6th respondent, if the 1st respondent is convinced that it is a matter to be examined any further, then such representation may be forwarded to the Principal Secretary to Government in Finance Department and the grievances and complaints voiced by the petitioner/incumbents concerned in respect of the impugned action and as against the Treasury officials concerned may be looked into and appropriate decision may be taken by the Principal Secretary to Government in Finance Department, after due consultation with the Principal Secretary to Government in the Revenue (Devaswom) Department.

With these observations and directions, the Writ Petition (Civil) stands finally disposed of.

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ALEXANDER THOMAS, JUDGE

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P.S. to Judge