

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE V. CHITAMBARESH

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 5823 of 2009 (W)

PETITIONER:

S. JAYAKUMAR, SIVASAKTHI, SAGARA-73,
AYANIKADU, KUDAPPANAKUNNU,
THIRUVANANTHAPURAM, FROM 'THIRUVONAM',
KALINGU JUNCTION, VITHURA PO, THIRUVANANTHAPURAM.

BY ADVS. SRI. S. RAJASEKHARAN NAIR
SRI. RAJU SEBASTIAN VADAKKEKKARA

RESPONDENTS:

1. THE SECRETARY, VITHURA SERVICE CO-OPERATIVE
BANK LTD. NO. 1048, VITHURA PO,
THIRUVANANTHAPURAM 695 551.

2. THE SECRETARY, KERALA STATE CO-OPERATIVE
EMPLOYEES PENSION BOARD, P.B. NO. 85,
KALA NIVAS, T.C 27/156, 157, CHINMAYA LANE,
KUNNUMPURAM, NEAR AYURVEDA COLLEGE,
THIRUVANANTHAPURAM.

R1 BY ADV. SRI. BABY MATHEW

R2 BY ADV. SRI. K. R. SUNIL, SC, CO-OP. EMP. PENSION BOARD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11-03-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1 : TRUE COPY OF AWARD DATED 20.03.2007 IN ID 83/2000 OF INDUSTRIAL TRIBUNAL, KOLLAM.
- EXHIBIT P2 : TRUE COPY OF REPRESENTATION DATED 02.04.2008 SUBMITTED BY PETITIONER TO THE 1ST RESPONDENT.
- EXHIBIT P3 : TRUE COPY OF LETTER DATED 12.06.2008 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
- EXHIBIT P3(a) : TRUE COPY OF LETTER DATED 12.05.2008 SEND BY THE 2ND RESPONDENT TO THE 1ST RESPONDENT.
- EXHIBIT P4 : TRUE COPY OF LAWYERS NOTICE DATED 23.07.2008.
- EXHIBIT P5 : TRUE COPY OF LETTER DATED 07.08.2008 ISSUED BY 2ND RESPONDENT.

RESPONDENT(S) EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

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Dated this the 11th day of March, 2015

JUDGMENT

Both dismissal and compulsory retirement amount to removal from service within the meaning of clause 18(2) of the Co-operative Societies Employees Self Financing Pension Scheme, 1994. The petitioner is therefore not entitled to pension as held in **Mohandas Vs. Kerala State Co-operative Employees Pension Board [2012 (3) KLT 666]**. That the petitioner was compulsorily retired is evident from Ext.P1 award of the Industrial Tribunal passed on the basis of a consensus.

2. The petitioner is at best entitled to compassionate allowance for which the first respondent Society is to recommend to the second respondent Board. The necessity to so recommend has also been stated in Ext.P5 letter addressed by the second respondent Pension Board to the counsel for the petitioner. The first respondent is therefore directed to recommend for the payment of compassionate allowance to the

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petitioner within a period of two months from the date of production of a copy of this judgment.

The Writ Petition is disposed of.

**V. CHITAMBARESH
JUDGE**

ncd