

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).No. 4760 of 2013 (T)

PETITIONER:

B.RADHAKRISHNA PILLAI, AGED 60 YEARS
S/O. BHASKARAN PILLAI, MEMANA, KUTTIKKAT LANE,
NEAR RAILWAY STATION, CHIRAYINKAL - 695 304.

BY ADV. SRI.P.CHANDRASEKHAR

RESPONDENTS:

1. KOLLAM DISTRICT CO-OPERATIVE BANK LTD
KOLLAM - 691 001, REPRESENTED BY
ITS GENERAL MANAGER.
2. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES
KOLLAM - 691 001.

BY ADV. SRI.T.R.HARIKUMAR, SC, KOLLAM DISTRICT COOPERATIVE BANK LTD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-02-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1 - TRUE COPY OF THE ORDER DATED 06/04/2011 OF THE ADDITIONAL REGISTRAR/SECRETARY, KERALA STATE CO-OPERATIVE EMPLOYEES PENSION BOARD, THIRUVANANTHAPURAM 695 001.
- EXHIBIT P2 - TRUE COPY OF THE SOCIETY WISE CASH CREDIT LIST OF THE MAIN BRANCH, KOLLAM OF THE IST RESPONDENT DATED 12/03/2010.
- EXHIBIT P3 - TRUE COPY OF THE REPORT DATED 15/05/2010 TO THE IST RESPONDENT BY THE PETITIONER.
- EXHIBIT P4 - TRUE COPY OF THE ADDITIONAL REPORT DATED 03/06/2010 SUBMITTED BY THE PETITIONER TO THE IST RESPONDENT.
- EXHIBIT P5 - TRUE COPY OF THE CHARGE MEMO DATED 02/08/2010 ISSUED BY THE IST RESPONDENT TO THE PETITIONER.
- EXHIBIT P6 - TRUE COPY OF THE REPLY DATED 19/08/2010 OF THE PETITIONER TO THE IST RESPONDENT IN REPLY TO THE CHARGE MEMO.
- EXHIBIT P7 - TRUE COPY OF THE REQUEST DATED 07/01/2013 SUBMITTED BY THE PETITIONER TO THE PUBLIC INFORMATION OFFICER OF THE IST RESPONDENT.
- EXHIBIT P8 - TRUE COPY OF THE REPLY DATED 05/02/2013 OF THE INFORMATION OFFICER/DEPUTY GENERAL MANAGER OF THE IST RESPONDENT TO THE PETITIONER.

RESPONDENTS' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

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Dated this the 9th day of February, 2015

JUDGMENT

The gratuity of an employee can be withheld only if his services have been terminated under certain contingencies. The same is explicit from Section 4(6) of the Payment of Gratuity Act, 1972 which is extracted hereunder:

“(6) Notwithstanding anything contained in sub-section(1)

(a) the gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused.

(b) the gratuity payable to an employee (may be wholly or partially forfeited)

(i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or

(ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.”

The petitioner in the instant case was allowed to retire from service on 31.01.2011 on attaining the age of superannuation. No question of withholding his gratuity arises since the services

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of the petitioner were not terminated.

2. It is however reported the disciplinary proceedings initiated by the first respondent bank against the petitioner has reached a final stage. The first respondent is therefore directed to disburse the entire amount due as gratuity to the petitioner within two months. Needless to say that the said amount will carry interest at the rates applicable. The first respondent bank is also at liberty to initiate independent steps for recovery of the amount if any due from the petitioner as per law. It would ofcourse be subject to the culmination of the disciplinary proceedings pending.

The Writ Petition is disposed of.

**V. CHITAMBARESH
JUDGE**

ncd