

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

WP(C).No. 10496 of 2007 (Y)

PETITIONER(S):

**S.S. PILLAI, S/O.SANKARA PILLAI,
AGED 64 YEARS, "SRAVANAM", AKATHUPADAM,
THIRUVANKULAM P.O., ERNAKULAM DISTRICT.**

BY ADV. SRI.VARGHESE.J.PUNNACHALIL.

RESPONDENT(S):

**1. INDIAN OIL CORPORATION LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR,
G-9, ALI YAVAR JUNG MARG, BANDRA (EAST),
MUMBAI-400 051.**

**2. CHIEF ER MANAGER,
INDIAN OIL CORPORATION LTD., MARKETING DIVISION,
SOUTHERN REGION, INDIAN OIL BHAVAN, 139,
NUNGAMBAKKAM HIGH ROAD, CHENNAI-600 034.**

**BY ADVS. SRI.E.K.NANDAKUMAR, SC,
SRI.K.JOHN MATHAI,
SRI.P.BENNY THOMAS,
SRI.ANIL D. NAIR.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23-09-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

WP(C).No. 10496 of 2007 (Y)

J U D G M E N T

The matter stands posted for disposal. Today also, there is no representation for the petitioner. The writ petition is closed without examining the merits.

23/09/2015.

SD/- A.V.RAMAKRISHNA PILLAI, JUDGE

//TRUE COPY//

P.A TO JUDGE

rs.

ANU SIVARAMAN, J.

W.P(C).No.10496 of 2007

Dated this the 21st December, 2015

JUDGMENT

This writ petition is filed challenging Exhibits P1, P2 and P9 orders issued by the respondents seeking to recover an amount of Rs.27,995/-, which was paid to the petitioner as resettlement benefit, from the productivity incentive due to him. The petitioner retired from service of the respondents as Accounts Officer on 30.4.2003 from the LPG plant, Kollam. Going by Exhibit R1(a), an employee, on settling down permanently at a place of his choice, other than his last place of posting after superannuation is entitled to resettlement benefit from the first respondent Corporation. This was duly claimed by the petitioner on the plea that he was resettling at Thiruvamkulam in Kochi on retirement. Therefore, an amount of Rs.27,995/- was paid to him as resettlement benefit. Thereafter, the Corporation sought to recover the amount from the productivity incentive benefits

due to the petitioner on the ground that he was availing the benefit of Post Retirement Medical Scheme from Kollam and therefore it was assumed that his claim with regard to resettlement at Thiruvamkulam was false. Exhibit P2 dated 25.10.2005 recovering the amount was also issued to the petitioner. He had preferred Exhibit P3 as against Exhibits P1 and P2 and this Court by Exhibit P4 judgment, had directed to consider his case. Thereafter, Exhibit P5 order has been passed by the Corporation rejecting the request made by the petitioner. It is stated in Exhibit P5 that in case a retiring employee chooses to be a member of the Post Retirement Medical Scheme, the address for obtaining post medical benefits should be the same as the address of the resettlement given by him. Change in address is permissible only after three years after such resettlement with permission of the Functional Director. It is further stated that since the petitioner had been availing the Post Retirement Medical Scheme benefits from Kollam habitually since his retirement, his claim for resettlement benefits that he had

resettled in Thiruvamkulam could not be true. It is therefore that the resettlement benefits had been recovered.

2. The respondents have also filed counter affidavit and produced Exhibit R1(a), which is stated to be the guidelines regarding retirement benefits, which was made available to the petitioner also. The medical bills raised by the petitioner under the Post Retirement Medical Scheme have also been produced by the respondents to contend that the medical bills being claimed are from Kollam.

3. Heard learned counsel for the petitioner and the learned counsel appearing for the respondents.

4. It is the specific case of the petitioner that he had, as a matter of fact, been residing at Thiruvamkulam in Kochi after retirement. He had also filed pleadings to the effect that his daughter being permanently settled at Kollam, he had travelled to Kollam and availed medical facilities there, since his daughter and wife accompanied him for their medical needs. It is also contended that Exhibit R1(a) did not contain any stipulation to the effect that medical bills had to

be raised from the place of retirement and that the resettlement benefits would be recovered in case medical bills are from any other place.

5. The petitioner retired from service on 30.4.2003. His request for resettlement benefits had been examined by the respondents and had been granted to him. I also notice that all the communications produced by the petitioner are addressed to his residential address as claimed by him in Thiruvamkulam. He has a specific case that he resided in Thiruvamkulam and the fact that he had claimed bills which were raised at Kollam cannot be a ground to assume that he had resided at Kollam. I find force in the above contention. No other materials have been relied on by the respondents to claim that the petitioner was not resided at Thiruvamkulam as claimed by him. The respondents also do not appear to have a case that the petitioner had no residence at Thiruvamkulam as claimed by him. The only contention raised is that since the bills raised under the Post Retirement Medical Scheme were from Kollam, it is to

be assumed that the petitioner did not re-settle at Thiruvamkulam. I do not think that such conclusion is reasonable and sustainable.

6. Going by the pleadings and materials on record, I am of the opinion that the assumption reached by the respondents that the claim made by the petitioner for resettlement was false and fraudulent is not justified. In the above circumstances, the writ petition is allowed and Exhibits P1, P2 and P5 are set aside. The respondents are directed to release the amount of resettlement benefits wrongly recovered from the petitioner, along with interest at 4% per annum.

The writ petition is ordered accordingly.

**ANU SIVARAMAN
JUDGE**

vgs23/12