

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C) .No. 3742 of 2015 (P)

PETITIONER(S) :

PRABHAKARAN K.,
PLAVILA VEEDU, KOTTUKKAL P.O.,
ANCHAL 691306.

BY ADVS.SRI.S.RAMESH
SRI.NAVEEN.T
SMT.POOJA SURENDRAN.

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF LABOUR AND REHABILITATION,
GOVT.SECRETARIAT, THIRUVANANTHAPURAM - 695 501.
2. THE WELFARE FUND INSPECTOR,
KERALA TODDY WORKERS WELFARE FUND BOARD,
DISTRICT OFFICE KOLLAM, KOLLAM DISTRICT - 691 001.
3. THE DEPUTY TAHSILDAR (RR) ,
TALUK OFFICE, KOTTARAKKARA, KOLLAM - 691 001.
4. K.SURESH,
S/O.KARUNAKARAN, SREE VILASOM, EZHUKONE P.O.,
KOTTARAKKARA-691505.
5. ANIL KUMAR,
S/O.KARUNAKARAN, SREE VILASOM, EZHUKONE P.O.,
KOTTARAKKARA - 691 505.
6. RAMACHANDRAN NAIR,
S/O.UMMINI NAIR, KOONIIYIL PUTHENVEEDU, VAYALA P.O.,
KOTTUKKAL, ANCHAL - 691 306.

BY GOVERNMENT PLEADER SRI.R.RENJITH &
BY SRI.RENIL ANTO, SC, KTWWF BOARD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT.P1 : TRUE COPY OF THE PARTNERSHIP DEED DT.18-2-1999.

EXT.P2 : TRUE COPY OF THE GO DT.7-3-2011 ISSUED BY R1.

EXT.P3 : TRUE COPY OF THE ORDER DT.30-6-2014 ISSUED BY R2.

EXT.P4 : TRUE COPY OF THE MEMORANDUM OF APPEAL ALONG WITH
APPLICATION FOR STAY.

EXT.P5 : TRUE COPY OF THE LETTER 4-12-14 ISSUED BY R1.

EXT.P6 : TRUE COPY OF THE NOTICE DT.26-11-2014 ISSUED BY R3 UNDER
REVENUE RECOVERY ACT.

EXT.P7 : TRUE COPY OF THE NOTICE DT.26-11-2014 ISSUED BY R3 UNDER
REVENUE RECOVERY ACT.

EXT.P8 : TRUE COPY OF THE REQUEST DT.4-12-14 SUBMITTED BY THE
PETITIONER BEFORE R3.

EXT.P9 : TRUE COPY OF THE ORDER DT.22-1-15 ISSUED BY R1.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K. VINOD CHANDRAN, J

W.P(C) No. 3742 of 2015

Dated this the 24th day of February, 2015

J U D G M E N T

The petitioner is aggrieved with the rejection of an appeal filed under the Kerala Toddy Workers Welfare Fund Act. The appeal was delayed by 15 days. The Act provides for an appeal only within a period of sixty days as per Section 8(5) of the Act. No time for condonation of delay is available within statute; but the petitioner claims Section 5 of the Limitation Act, 1963, is to be invoked. The learned counsel for the petitioner would contend that the issue is covered by a judgment of the Hon'ble Supreme Court in **State of Madhya Pradesh and another v Anshuman Shukla [2014(10) SCC 812]**.

2. It is relevant to notice that even as per the said decision, section 5 of the Limitation Act was said to be applicable only in cases where the proceedings were

taken before a Court, under special enactments. In the aforesaid case, the appeal is to be filed before the statutory authority and hence Section 5 of the Limitation Act, would not be applicable.

3. In fact, specific reservation was made in Paragraph 33 of the said decision.

Paragraph 33:

“In our opinion, it is unnecessary to delve into the question whether the Arbitral Tribunal constituted under the Act is a court or not for answering the issue in the present case as the delay in filing the revision has occurred before the High Court, and not the Arbitral Tribunal.”

4. The statutory authority has not been conferred with specific powers to condone delay and the issue would be covered by the decisions of this Court in ***Assistant Commissioner of Central Excise v. Krishna Poduval*** [2005(4) KLT 947] and ***Panopharam v. Union of India*** [2010(3)

KLT 149]. The writ petition hence has to be found to be devoid of merit and the same is dismissed.

5. However, the petitioner's liability is joint and several, and if he satisfies the amounts, definitely he could take proceedings against the other persons who have been mulcted with such liability; for recovery before the appropriate forum. The petitioner also prays for installments. In such circumstance, the petitioner shall be granted twelve installments for satisfying the entire dues. The respondent-Board shall quantify the dues as on 28.02.2015 and issue a statement of accounts, in accordance with which the instalments shall be paid. The 1st instalment shall be paid on or before 24.03.2015 and thereafter; the due date of instalments falling on the 24th of each succeeding month. If default is committed in two consecutive instalments, then the recovery proceedings shall revive and continue. On the satisfaction of the dues as per the statement, the authority shall give a statement

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: 4 :

of the future interest from 28.02.2015 and the same shall be settled as the 13th instalment.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

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P.A to Judge