

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

WP(C).No. 9340 of 2008 (J)

ID. NO.51/2005 OF INDUSTRIAL TRIBUNAL, PALAKKAD.

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PETITIONER(S):

**SMT. SASIKALA, W/O.SAMBHU,
THALAPPILLY, KOMBATHUKADAVU,
P.O. PUTHENCHIRA, THRISSUR-680 682.**

**BY ADVS.SRI.M.R.VENUGOPAL,
SMT.DHANYA PASHOKAN.**

RESPONDENT(S):

- 1. THE PRESIDENT, SREE KUMARA SABHA,
VELLUR, KOMBATHUKADAVU,
P.O. PUTHENCHIRA, THRISSUR, PIN-680 682.**
- 2. SREE KUMARA FINANCE CORPORATION,
VELLUR, KOMBATHUKADAVU,
P.O. PUTHENCHIRA, THRISSUR, PIN-680 682.**
- 3. THE INDUSTRIAL TRIBUNAL, PALAKKAD.**

**R1 & R2 BY ADV. SRI.M.H.HANIL KUMAR.
R3 BY GOVT. PLEADER SRI.T.J. MICHAEL.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 08-01-2015, ALONG WITH WP(C).NO.31764 OF 2008, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

WP(C).No. 9340 of 2008 (J)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 COPY OF THE AWARD DATED 14/11/2007 PASSED BY THE
3RD RESPONDENT.

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

K. VINOD CHANDRAN, J.
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**W.P.(C) Nos.9340 of 2008 - J &
31764 of 2008 - F**
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Dated this the 8th day of January, 2015

J U D G M E N T

The management and worker challenge the award of the Industrial Tribunal in two separate writ petitions. A dispute arose on the alleged termination of the worker from the management. The management impleaded as M1 before the Industrial Tribunal is the President of a Sabha and M2 is a finance corporation run by M1. The worker claimed that she had been appointed from 14.08.1998, as a clerical staff and was denied employment on 27.10.2003, without notice and without any valid reason. The denial of employment was the issue referred for adjudication to the Industrial Tribunal.

2. Before the Industrial Tribunal, the worker examined herself as WW1 and the Secretary of a Co-operative Bank in which the management maintains an

account as WW2. The Secretary of the Co-operative Bank was examined to prove that an amount of Rs.2,000/- was debited to the amount of the management, every month. However, the Labour Court rightly found that there was nothing to evidence that the amounts were paid to the worker. In fact, but for the mere withdrawal of Rs.2,000/- per month, there was nothing to substantiate the contention of the worker that such amounts were paid to her as salary.

3. However, there were inconsistencies in the claim of the management, on which alone, the Industrial Tribunal found that the denial of employment was illegal. There was no consistent case for the management. The management had contended that the worker had not been a regular employee of the management. The husband of the worker was the Secretary of the Sabha and it was at his instigation that the aforesaid claim was made. The worker was allowed to work in the finance corporation without a proper appointment order by her husband, was the

contention. The appointment itself was said to be not proper. It is also seen from the order of the Industrial Tribunal that the husband of the worker was removed from the post and subsequently on the new managing committee coming into office, the worker was alleged to have been removed from service.

4. What is to be emphasised is that the claim has been allowed merely on the inconsistencies in the written statement of the management. In fact, the Industrial Tribunal ought to have noticed that the claimant would have to substantiate her claim and only then could the management be asked to controvert the same. It is also to be noticed that admittedly, the worker had been carrying an employment in a library, during the period, in which the worker claims to have been engaged in the management corporation also. However, the Industrial Tribunal brushes aside such admission, on the ground that the management does not have a case that such alternative employment in

any manner interfered with the employment in the management.

5. The regular and continuous employment in the management having not been clearly established, it is difficult to sustain Ext.P1 award. However, it is to be noticed that the Industrial Tribunal has not granted any reinstatement. Though the Industrial Tribunal entered a finding that the worker is entitled to reinstatement, the Industrial Tribunal has merely awarded a compensation of Rs.10,000/- to the worker. This Court does not find any reason to interfere with the same under Article 226 of the Constitution of India.

The writ petition of the management as also the worker will stand dismissed. Parties to bear their respective costs.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //
P.A to Judge.