

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

WP(C).No.7673 of 2014 (H)

PETITIONER:

**SHINYMOL THOMAS,W/O.JO JOSEPH,CLERK,
KOZHUVANA SERVICE CO-OPERATIVE BANK LTD.NO:213,
MOZHUVANAL P.O.,MEENACHIL TALUK,KOTTAYAM DISTRICT.**

**BY SRI.P.RAVINDRAN (SENIOR ADVOCATE.)
ADV.SRI.SREEDHAR RAVINDRAN.**

RESPONDENT'S:

- 1. THE KOZHUVANAL SERVICE CO-OPERATIVE BANK LTD.
NO:123,REP. BY ITS SECRETARY,KOZHUVANAL PO.
MEENACHIL TALUK,KOTTAYAM DISTRICT-686 573.**
- 2. PRESIDENT,KOZHUVANAL SERVICE CO-OPERATIVE BAK LTD.
KOZHUVANAL P.O.,MEENACHIL TALUK,
KOTTAYAM DISTRICT-686 573.**
- 3. KERALA CO-OPERATIVE ARBITRATION COURT,
THIRUVANANTHAPURAM-695001.**

**R1,R2 BY ADVS.SRI.B.ASHOK SHENOY
SMT.C.G.PREETHA
SRI.K.V.GEORGE
SRI.P.N.RAJAGOPALAN NAIR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04.03.2015 THE COURT ON 27-03-2015, DELIVERED THE FOLLOWING:**

pk

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1:TRUE COPY OF COMMUNICATION DATED 6.3.2013.

**EXHIBIT P2:TRUE COPY OF THE COMMUNICATION DATED 23.3.2013 FROM THE
CHIARMAN OF DISCIPLINARY SUB COMMITTEE.**

**EXHIBIT P3:TRUE COPY OF THE COMMUNICATION DATED 23.3.2013 FROM 2ND
RESPONDENT CO-OPERATIVE SOCIETY.**

EXHIBIT P4:TRUE COPY OF THE ORDER DATED 9.4.2013.

**EXHIBIT P5:TRUE COPY OF THE PLAINT BEFORE CO-OPERATIVE ARBITRATION
COURT, THIRUVANANTHAPURAM.**

EXHIBIT P6:TRUE COPY OF THE APPLICATION DATED 26.2.2014.

**EXHIBIT P7:TRUE COPY OF THE ORDER VACATING THE INTERIM ORDER
DATED 23.1.2014.**

RESPONDENT'S EXHIBITS:

**EXT.R1(a):TRUE COPY OF THE ENQUIRY REPORT DATED 28.2.2013 OF THE
ENQUIRY OFFICER JIJI THOMAS, ADVOCATE,PALA.**

**EXT.R1(b):TRUE COPY OF LETTER DATED 8.8.2013 SENT BY VICE PRESIDENT
OF 1ST RESPONDENT TO PETITIONER,ALONGWITH THE DECISION
DATED 5.8.2013 OF THE APPEAL COMMITTEE OF THE 1ST
RESPONDENT.**

**EXT.R1(c):TRUE COPY OF INTERLOCUTORY APPLICATION NO.58/2013 IN
A.R.C.NO.72/2013 FILED BY PETITIONER BEFORE THE COOPERATIVE
ARBITRATION COURT,THIRUVANANTHAPURAM.**

**EXT.R1(d):TRUE COPY OF THE APPLICATION DATED 17.10.2013 FILED BY
ADV.P.T.JOSEPH,COUNSEL FOR RESPONDENTS IN ARC NO.72/2013
BEFORE THE COOPERATIVE ARBITRATION COURT,
THIRUVANANTHAPURAM.**

**EXT.R1(e):TRUE COPY OF THE COUNTER AFFIDAVIT DATED 17.10.2013 IN
I.A.NO.58/2013 IN A.R.C. NO.72/2013 FILED BY THE RESPONDENTS
BEFORE THE COOPERATIVE ARBITRATION COURT,
THIRUVANANTHAPURAM.**

//TRUE COPY//

P.S. TO JUDGE

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 7673 of 2014

Dated this the 27th day of March, 2015

J U D G M E N T

Challenging Ext.P7 order issued by the arbitration court vacating the interim order of stay, the petitioner has come up before this Court.

2. The petitioner, while working as Cashier under the 1st respondent co-operative society, was kept under suspension. According to the petitioner, she was suspended alleging trivial charges. Later, she was issued with a memo of charges. The petitioner alleges that though objections were filed, without considering the same, an enquiry officer was appointed and the report of the enquiry officer was accepted by the disciplinary authority without affording the petitioner an opportunity to raise her contentions regarding the report. Thereafter, by Ext.P4, she was imposed with a punishment of reversion to the post of junior most clerk. Ext.P4 was

..2..

challenged in appeal before the Board of Directors, but, without success. Therefore, she approached the Co-operative Arbitration Court filing Ext.P5 plaint, in which an interim order dated 10.10.2013 was passed staying the operation of Ext.P4 after hearing both parties. Thereafter, the arbitration court has rendered Ext.P7 order, which according to the petitioner, is not legally sustainable.

3. In the detailed counter affidavit filed by respondents 1 and 2, they have justified their stand in imposing penalty of reversion on the petitioner. They also contended that the stay order happened to be vacated as the same has become infructuous.

4. Arguments have been heard.

5. The arbitration court has stated two reasons for issuing Ext.P7 order. The first reason is that the reversion has taken effect. The second reason is that if the interim order is allowed to stand, it will have the effect of granting final relief. According to the learned

..3..

counsel for the petitioner, both reasons are not sustainable. It was pointed out that the arbitration court has failed to consider the legal position that unlike dismissal from service, an order of reversion can be stayed at any point of time and it can take effect if the suit is dismissed. It was further pointed out that the reason that the interim relief granted has resulted in granting ultimate relief, is also wrong for the reason that the interim order passed in the present case has only the effect of suspending the operation of Ext.P4 punishment order.

6. In the counter affidavit filed by respondents 1 and 2, they have stated the sequence of events that have taken place before the arbitration court. Ext.R1(c) application for stay was posted before the arbitration court on 10.10.2013 for appearance of respondents 1 and 2 and for filing objections. Respondents 1 and 2 entered appearance through their counsel and sought for time to file objections. However, due to the untimely demise of a

..4..

close relative of their counsel, the respondent society could not file the objections in the matter. Then, the arbitration court passed the interim stay of Ext.P4 until further orders noticing that objections were not filed despite filing caveat. On 17.10.2013, the learned counsel for respondents 1 and 2 filed an application for reviewing the interim order passed on 10.10.2013 in IA No.58/2013 and to pass orders on merits on the IA after considering objections. Ext.R1(d) is the true copy of the said application. Respondents 1 and 2 have also filed a detailed counter affidavit to the IA, which is marked as Ext.R2(c). By Exts.R1(d) & R1(e), respondents 1 and 2 brought to the notice of the arbitration court the fact that the punishment of reversion imposed on the petitioner by Ext.P4 order was confirmed by Ext.R1(b) appellate order; and the same has been effected on the petitioner having re-joined duty as junior most Junior Clerk in the services of the 1st respondent on 15.04.2013. Therefore, respondents 1 and 2 pointed out that the stay has become

infructuous.

7. No objections were filed by the petitioner to Ext.R1(d) application. The IA was posted for hearing and heard; and after hearing, Ext.P7 order was passed on merits. It can be seen that Ext.P7 was passed after hearing both sides. As the reversion has been taken place, this Court is of the view that this writ petition can be disposed of directing the arbitration court to dispose of the proceedings pending before it within a time frame.

In the result, the writ petition is disposed of directing the 3rd respondent to dispose of the proceedings pending before it within a period of three months from the date of receipt of a copy of this judgment. If ultimately it is found that the reversion of the petitioner is illegal, the petitioner would be entitled to get all benefits as if she had continued in the same post.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-