

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No.11134 of 2013 (N)

PETITIONER:

**A.G RAMACHANDRA PANICKER,S/O.GPALA PANICKER,
AGED 60 YEARS,PEON (RETIRED),SREE CHITRA CULTURAL & HINDU
RELIGIOUS LIBRARY (IN SHORT "SCCHR LIBRARY") ,
TRAVANCORE DEVASWOM BOARD,PUTHENCHANTHA,
THIRUVANANTHAPURAM-695001 AND RESIDING AT
PADINJARESANHUVIRUTHIYIL,VAZHOOR-P.O.,
KODUNGOOR,KOTTAYAM-6865504.**

BY ADV. SRI.N.UNNIKRISHNAN

RESPONDENTS:

- 1. THE TRAVANCORE DEVASWOM BOARD,
NANTHANCOD,THIRUVANANTHAPURAM-695003,
REPRESENTED BY THE SECRETARY.**
- 2. THE SECRETARY,TRAVANCORE DEVASWOM BOARD,
NANTHANCOD,THIRUVANANTHAPURAM-695003.**
- 3. THE DEVASWOM COMMISSIONER,
TRAVANCORE DEVASWOM BOARD,
NANTHANCOD,THIRUVANANTHAPURAM-695003.**
- 4. THE DIRECTOR,CULTURAL DEPARTMENT,
TRAVANCORE DEVASWOM BOARD,
THIRUVANANTHAPURAM-695001.**

**R1 TO R4 BY SRI.A.N.RAJAN BABU, SC, TRAVANCORE DEVASWOM
BOARD**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 25-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

WP(C).No.11134 of 2013 (N)

APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT-P1:A TRUE COPY OF JUDGMENT DATED 11.05.2010 IN W.P.(C)
NO.14566/2010.**

EXHIBIT-P2:A TRUE COPY OF ROC NO.7984/03/ESTT.A DATED 27.10.2004.

EXHIBIT-P3:A TRUE COPY OF ROC NO.1370/10/ESTT.DATED 13.08.2010.

EXHIBIT-P4:A TRUE COPY OF LETTER NO.ROC 5845/10/ESTT.DATED 10.02.2011.

**EXHIBIT-P5:A TRUE COPY OF INTERIM ORDER DATED 22.03.2012 IN W.P.(C)
NO.6981/2012.**

**EXHIBIT-P6:A TRUE COPY OF INTERIM ORDER DATED 23.05.2012 IN W.P.(C)
NO.6981/2012.**

EXHIBIT-P7:A TRUE COPY OF LETTER NO.80/12/CA 1 DATED 31.12.2012.

EXHIBIT-P8:A TRUE COPY OF REPRESENTATION DATED 21.01.2013.

EXHIBIT-P9:A TRUE COPY OF LETTER NO.827 DATED 08.05.2012.

EXHIBIT-P10:A TRUE COPY OF LETTER NO.1321 DATED 03.07.2012.

EXHIBIT-P11:A TRUE COPY OF LETTER NO.80/12/CA.1 DATED 05.09.2012.

RESPONDENT'S EXHIBITS: **NIL**

//TRUE COPY//

P.S. TO JUDGE

pk

THOMAS P. JOSEPH, J.

W.P.(C). No. 11134 of 2013

Dated this the 28th day of May, 2013.

JUDGMENT

The petitioner claims that he retired as Peon under the first respondent on 31.12.2012 on attaining superannuation at the age of 60 years. According to the petitioner, he produced Exts.P9 to P11 before the appropriate authority showing that there is no liability pending as against him. But, the respondents have not so far issued the retiral benefits due to him on 01.01.2013. Hence, this writ petition for appropriate directions.

2. The learned Standing Counsel for the respondents submits that petitioner was originally a temple employee and later, his category was changed as Peon in the establishment. Employees of the temple appointed in the year 1971 could continue up to the age of 60 years. Employees in the establishment however are to be retire at the age of 55 years. While so, probation of the petitioner was declared by Ext.P4, order allowing him to continue as Peon up to the age of 60 years. Later, notice was issued to the petitioner to review Ext.P4, order as the petitioner could continue only up to the age of 55 years.

That notice is challenged by the petitioner in W.P.(C) No. 6981 of 2012 which is pending decision in this Court. It is in the above circumstances, the learned Standing Counsel argues, retiral benefits were not given to the petitioner.

3. The learned counsel for the petitioner contend that he joined the service in the year 1971 and hence he is entitled to continue up to the age of 60 years.

4. Since the question as to whether Ext.P4 order is liable to be reviewed or not is pending decision in W.P.(C) No. 6981 of 2012, it is not necessary or appropriate to go into the question as to what is the retirement age of the petitioner. If that be so, question will arise as to the date to be reckoned to decide the last drawn salary of the petitioner for disbursement of retiral benefits.

5. However, having heard learned counsel for the petitioner, learned Standing Counsel for the respondents and considering the fact that the petitioner is not in service from 31.12.2012 (whatever be the age of retirement), I am inclined to direct the respondents to pay the pension, provident fund and salary for December, 2012 provisionally and subject to the result of the W.P.(C) No. 6981 of 2012 taking 31.12.2012 as

the date to be fixed for fixing the last drawn salary subject to the rider that in case it is found consequent to the decision to review Ext.P4, order that petitioner is liable to refund any amount, it will be open to the respondents to recover such amount or adjust the amount towards any further amount payable to the petitioner.

Resultantly, this writ petition is disposed of as under:

1. Respondents are directed to provisionally disburse the pension, provident fund and salary of the petitioner for December, 2012 reckoning 31.12.2012 as the date for fixing the last drawn salary, subject to the result of the W.P.(C) No. 6981 of 2012, as early as possible, at any rate within one month from the date on which a copy of this judgment is produced before the first respondent.
2. It is made clear that if pursuant to the decision in W.P. (C) No. 6981 of 2012 and on review of Ext.P4, order as regards retirement age of the petitioner any amount is found due to the respondents, it will be open to the respondents to recover the same from the petitioner or adjust the same towards further amount, if any

payable to the petitioner.

3. Petitioner shall produce a copy of this writ petition and judgment before the first respondent at the earliest.

sd/- THOMAS P. JOSEPH, JUDGE.