

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

WP(C).No. 11972 of 2013 (V)

PETITIONER(S):

**A. DAMODARAN,
JAYARAM NIVAS, UPPALA, KASARAGOD**

BY ADV. SRI.SAJEEV KUMAR K.GOPAL

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
LABOUR & REHABILITATION(S) DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**
- 2. THE DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD,
KASARAGOD, PIN - 671 121.**
- 3. THE TAHSILDAR (R.R),
KASARAGOD PIN - 671 121.**

**R1 & R3 BY GOVERNMENT PLEADER SRI.NOUSHAD THOTTATHIL
R2 BY ADV. SRI.NAVEEN T., SC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 11972 of 2013 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE RORDER NO ES 475/FDO/97-98-01-02 OF THE
2ND RESPONDENT DATED 30-04-2009.**

**EXHIBIT P2: TRUE COPY OF THE APPEAL SUBMITTED BY THE PETITIONER BEFORE
THE 1ST RESPONDENT DATED 28-06-2008.**

**EXHIBIT P3: TRUE COPY OF THE ORDER NO 17478/S3/08/LBR OF THE
1ST RESPONDENT DATED 04-09-2008.**

**EXHIBIT P4: TRUE COPY OF THE ORDER NO G.O(RT) 1161/2012/LBR BY THE
1ST RESPONDENT DATED 30-07-2012.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.M. SHAFFIQUE, J.

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W.P. (C) No. 11972 of 2013

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Dated this, the 16th day of September, 2015

J U D G M E N T

Petitioner challenges Exts.P1 and P4 by which orders had been passed calling upon the petitioner to pay the contribution of employer and employees as well as 5% of the wages as gratuity under the Kerala Transport Workers Welfare Fund Act, 1985 and the Rules framed thereunder. Ext.P1 is the initial order which came to be challenged by way of an appeal. The appeal was dismissed in terms of Ext.P4 order confirming the view taken by the original authority.

2. Petitioner has raised two specific contentions. One is that petitioner is not liable to pay the contribution of the employees and secondly that the demand for payment of 5% gratuity is illegal.

3. Counter affidavit has been filed by respondents 1 and 2 *inter alia* stating that it is the obligation of the employer to collect the contribution from the employees and to remit the

same along with the employer's contribution. That apart, this is not in tune with Rule 31 Sub clauses (1), (2) and (3) of the Kerala Motor Transport Workers Welfare Fund Scheme. Further, the liability to pay 5% of the wages as gratuity is in terms of Section 4 (2) of the Kerala Motor Transport Workers Welfare Fund Act, 1985.

4. Having regard to the fact that the determination of the amount has been made in terms with the statutory provisions, I do not think that the petitioner is entitled to challenge Exts.P1 and P4 orders which have been passed in accordance with the statutory provisions.

Under such circumstances, there is no merit in the above writ petition and the same is liable to be dismissed. However, petitioner is granted three months time to remit the dues as per the demand raised.

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

16/09/2015

//True Copy//

PS to Judge