

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

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

WP(C).No. 18484 of 2007 (A)

PETITIONER(S):

N.NANDAKUMARAN, AGED 60 YEARS,
WEST EZHUTHULLIL HOUSE, RAVIPURAM, KOCHI-16.

BY ADV. SRI.K.S.SAJEEV KUMAR

RESPONDENT(S):

1. THE GENERAL MANAGER,
PERSONAL DEPARTMENT, VIJAYA BANK, HEAD OFFICE
M.G.ROAD, BANGALORE- 560 001.

2. THE REGIONAL MANAGER,
VIJAYA BANK, JOSE ANNEX, REGIONAL OFFICE
M.G.ROAD, KOCHI-16.

R,R2 BY ADV. SRI.K.ANAND (A.201)
R,R2 BY ADV. SMT.LATHA KRISHNAN

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

WP(C).No. 18484 of 2007

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1: A TRUE COPY OF THE PROCEEDINGS NO.NDKM 4-17/14 DATED 27/05/2014
ISSUED BY THE FOURTH RESPONDENT.

EXT.P2: A TRUE COPY OF THE LETTER DT.21/02/2006 ISSUED BY THE PETITIONER
TO THE GENERAL MANAGER VIJAYA BANK, PERSONNEL DEPARTMENT (PS & PD),
BANGALORE

EXT.P3: A TRUE COPY OF THE LAWYERS NOTICE DT.21/06/2006 ISSUED TO THE
RESPNDENTS.

EXT.P4: A TRUE COPY OF THE LAWYERS NOTICE DT.26/07/2006 ISSUED TO THE
RESPONDENTS.

RESPONDENT(S) ' EXHIBITS : NIL

ms

\\TRUE COPY//

P.S to Judge

A.MUHAMED MUSTAQUE, J.

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**W.P.(C).No.18484/2007**  
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Dated this the 27th day of March, 2015

J U D G M E N T

The petitioner has approached this Court for the following reliefs:

“i. Issue a writ of mandamus or any other appropriate writ or order directing the respondents to disburse the leave encashment of 242 days to the petitioner.

ii. Issue a writ of mandamus or any other appropriate writ or order directing the respondents to disburse the interest on the principal amount of gratuity as also the leave encashment, to be calculated at quarterly rests from 23/05/2000 until the date of actual disbursement of the same and

iii. Such other writ or direction as this Hon'ble Court deem fit in the facts and circumstances of the above case.”

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2. In respect of the first relief, it is stated in para.7 of the counter affidavit filed by the first respondent as follows:

"7. It is respectfully submitted that the officers of the bank are governed by the provisions contained in Vijaya Bank (Officers) Service Regulations 1982. Regulation 38 deals with lapse of leave which is extracted herein below:

Save as provided below, all leave to the credit of an officer shall lapse on resignation, retirement, death, discharge, dismissal or termination for any reason whatsoever.

Provided that where an officer retires from the Bank's service in terms of Regulation 19 of these Regulations OR seeks voluntary retirement on or after 1st November 1993 in terms of Vijaya Bank (Employees) Pension Regulations, 1995 he shall be eligible to be paid a sum equivalent to the emoluments of any period not exceeding 240 days of privilege leave that he had accumulated;

Provided further that where an officer dies in service, there shall be payable to his legal representative sums which would have been

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payable for the period not exceeding 240 days of privilege leave to his credit as on the date of his death.

Provided also that where an officer leaves or discontinues his services by resignation on or after 1st April 2001 after giving due notice under sub regulation 2 of Regulation 20, he may be paid a sum equivalent to the emoluments in respect of the privilege leave to the extent of half of such leave to his credit on the date of cessation of service, subject to maximum of 120 days."

The petitioner has no case that the petitioner satisfies any of the conditions enumerated in that regulations. In that view of the matter, the petitioner's first prayer, accordingly, fails.

3. In respect of the second prayer for disbursal of interest for the principal amount of gratuity, it is stated in the counter affidavit that delay is not attributable to the bank. The petitioner had to compulsorily retire pursuant to disciplinary proceedings as per order dated 15/05/2000. Thereafter, the petitioner filed W.P.(C).No.12650/2001 before this

Court. This Court dismissed that writ petition on 05/04/2004. The matter was taken up in appeal as W.A.No.1560/2004, which was also dismissed on 08/09/2004. After the dismissal of the writ appeal, the bank forwarded the gratuity application and authorisation form to the petitioner and he submitted the same to the Regional Office of the Bank on 10/01/2006. The Bank, on receipt of the same, settled the eligible gratuity amount of Rs.3,50,000/- to the petitioner on 01/07/2006.

4. After the dismissal of W.A.No.1560/2004 on 08/09/2004, though the petitioner made an application for gratuity on 10/01/2006, he was granted gratuity only on 01/07/2006. The respondent ought to have paid gratuity amount as per Section 7(3) of the Payment of Gratuity Act, 1972 (for short, the "Act") to the petitioner within 30 days. Therefore, the petitioner is entitled for interest after the period of 30 days in terms of Section 7(3A) of the Act. Thus, the interest for the period from 11/02/2006 to 30/06/2006 shall be

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paid by the respondents at the rate of 9% and the same shall be released to the petitioner within a period of one month after receipt of the copy of this judgment.

The writ petition is disposed of as above. No costs.

**Sd/-
A.MUHAMED MUSTAQUE, JUDGE**

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