

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRA

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

WP(C).No. 25074 of 2005 (I)

PETITIONER:

K.M. KHADEEJA, AGED 63 YEARS,
W/O. SRI.K.P. SAIDALABI, HOUSE NO.10/1567
SHAH'S MANZIL, FORT KOCHI-682 001.

BY ADVS. SRI.M.R.GOPALAKRISHNAN NAIR
SRI.K.N.GOVINDANKUTTY MENON
SRI.K.KRISHNANKUTTY NAYAR
SRI.B.SOMADASAN

RESPONDENTS:

1. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL),
ERNAKULAM.
2. THE ERNAKULAM DISTRICT CO-OPERATIVE BANK LTD.,
H.O. THRIKKAKARA, KAKKANAD
KOCHI-682 030, REPRESENTED BY THE GENERAL MANAGER.
3. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT
DEPARTMENT OF CO-OPERATION, THIRUVANANTHAPURAM.

R2 BY ADV. SRI.P.V.SURENDRANATH
R2 BY ADV. SMT.I.SHEELA DEVI, SC, ERNAKULAM DIST.CO.OP.BANK LTD.
R1 & R3 BY GOVERNMENT PLEADER SRI P.V.ELIAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC.25074/05

PETITIONER'S EXTS:

- EXT.P1: COPY OF ORDER NO.PLG/9/9-2000 DT.12.6.99 ISSUED BY THE 2ND RESPONDENT.
- EXT.P2: COPY OF MEMO OF CHARGES NO.PLG9/99-2000 DT.12.8.99 ISSUED BY THE 2ND RESPONDENT.
- EXT.P3: COPY OF WRITTEN EXPLANATION OF THE PETITIONER TO THE MEMO OF CHARGES DT.12.8.99.
- EXT.P4: COPY OF PETITION DT.9.12.99 FILED BY THE PETITIONER.
- EXT.P5: COPY OF PETITION DT.9.12.99 FILED BY THE PETITIONER.
- EXT.P6: COPY OF LETTER NO.PLG/9/99-2000 DT.22.2.2000 ALONG WITH THE ENQUIRY REPORT DT.2.2.2000.
- EXT.P7: COPY OF ORDER NO.PLG/9/99-2000 DT.2.3.2000 ISSUED BY THE 2ND RESPONDENT.
- EXT.P8: COPY OF LETTER DT.5.7.99 SUBMITTED BY THE PETITIONER TO THE BANK MANAGER.
- EXT.P9: COPY OF CHALLAN NO.105/7 DT.5.7.99
- EXT.P10: COPY OF DETAILS OF THE AMOUNT RECOVERED FROM THE PETITIONER BY THE RESPONDENT BANK.
- EXT.P11: COPY OF ORDER NO.PLG/9/99-2000 DT.30.3.2000 ISSUED BY THE 2ND RESPONDENT.
- EXT.P12: COPY OF JUDGMENT DT.19.11.2002 IN OP NO.29939/2002.
- EXT.P14: COPY OF REPRESENTATION DT.30.4.2003 MADE BY THE PETITIONER TO THE FIRST RESPONDENT.
- EXT.P15: COPY OF JUDGMEN TDT.10.7.2003 IN WPC.21971/2003.
- EXT.P16: COPY OF ORDER NO.C.R.B.5163/03/K.DIS.DT.12.12.2003 ISSUED BY THE FIRST RESPONDENT.
- EXT.P17: COPY OF JUDGMENT DT.5.4.04 IN WPC.11972/04.
- EXT.P18: COPY OF APPEAL DT.25.5.2005 FILED BY THE PETITIONER BEFORE THE THIRD RESPONDENT.
- EXT.P19: COPY OF GO (RT)NO.386/05/CO-OP DT.27.6.2005 ISSUED BY THE ADDITIONAL SECRETARY, CO-OPERATION (B) DEPARTMENT, THIRUVANANTHAPURAM.
- EXT.P20: COPY OF JUDGMENT DT.18.12.02 IN C.C.NO.210/2002.

RESPONDENTS' EXTS: NIL

TRUE COPY

P.S.TOJUDGE

dsn

ANIL K.NARENDRA, J

W.P.(C)No.25074 Of 2005

DATED THIS THE 4th DAY OF AUGUST, 2015

JUDGMENT

The petitioner who was the Senior Branch Manager of the 2nd respondent Bank, was placed under suspension alleging misconduct by Ext.P1 memo dated 12.6.1999. The petitioner was issued with memo of charges to which she submitted her explanation. Dissatisfied with the explanation offered by the petitioner, an Enquiry officer was appointed to conduct an enquiry and submit a report. The petitioner was issued with a show cause notice to which she submitted her explanation. After considering the explanation offered by the petitioner, she was imposed with a punishment of compulsory retirement from service, with effect from 12.6.1999, vide Ext.P11 order dated 30.3.2000 of the 2nd respondent.

2. In this Writ petition, the relief sought for by the petitioner is to issue a writ of certiorari to quash Exts.P6 and Ext.P12 enquiry reports dated 22.2.2000 and 11.3..2000, respectively and also Ext.P19 Government order dated 27.6.2005. The petitioner has also sought for a writ of mandamus commanding

the 2nd respondent to release the amount of Rs.1,59,700/- remitted under the suspense account together with interest.

3. A statement has been filed on behalf of the 2nd respondent stating that, after conducting due enquiry the petitioner was awarded the punishment of compulsory retirement, vide Ext.P.11 order dated 30.3.2000, with retrospective effect from 12.6.1999. In addition to this, the 2nd respondent Bank has also filed a criminal complaint against the petitioner. The 2nd respondent would also point out that, the petitioner has not chosen to challenge Ext.P11 order by which she was imposed a punishment of compulsory retirement. After Ext.P20 judgment passed by the Judicial First Class Magistrate Court-II, Kochi in C.C.No.210/2002, the petitioner admitted the inadvertent acts and remitted ₹1,57,667/- by her on will. Subsequent to the criminal proceedings, the petitioner has approached the Bank and requested for the balance amount of ₹ 6,343.80 kept in the bank and that has also been disbursed to her on 22.9.2012.

4. I heard arguments of the learned counsel for the

petitioner and also the learned Standing Counsel for the 2nd respondent Bank.

5. From the pleadings and documents on record, it is evident that, alleging grave misconduct disciplinary proceedings were initiated against the petitioner which culminated in Ext.P11 order dated 30.3.2000 by which the petitioner was imposed with a punishment of compulsory retirement from service with effect from 12.6.1999. Without challenging the order of punishment, the petitioner filed representation before the 2nd respondent Bank for refund of the amount already deposited. In Ext.P15 judgment of this Court, the 1st respondent was directed to consider the matter, which resulted in Ext.P16 order passed by the 1st respondent. Against Ext.P16, the petitioner filed Ext.P18 appeal, which ended in dismissal by Ext.P19 order. A reading of Ext.P19 order would show that, it was without challenging the order of punishment imposed the petitioner is demanding refund of the amount already deposited. In the absence of any challenge made against the order of punishment imposed, the petitioner is not legally entitled to claim refund of the amount already

deposited. It is trite law that merely for the reason that the delinquent employee is acquitted in a criminal case arising out of the very same set of charges, he is not entitled for an automatic exoneration in the disciplinary proceedings. In such circumstances, merely for the reason that the petitioner is acquitted in a criminal case, as evident from Ext.P19 judgment, she is not entitled for refund of the amount already deposited. In the absence of any challenge made against the order of punishment, the request made by the petitioner can only be rejected.

6. In such circumstances, I find absolutely no grounds to interfere with Ext.P19 order dated 27.6.2005. The petitioner is not legally entitled for the reliefs sought for in this Writ Petition, which is filed after a lapse of 5 years from Exts.P11 order imposing punishment.

In the result, the Writ Petition fails and the same is dismissed. No order as to costs.

Sd/-
ANIL K.NARENDRA, JUDGE

dsn