IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

WP(C).No. 15021 of 2014 (C)

PETITIONER(S):

K.P.MATHEW, AGED 63 YEARS
S/O.PEELIPOSE, KAIPPALLIL HOUSE, CHARALANKANAM
UPPUTHODU P.O., IDUKKI DISTRICT, PINCODE -685 604.

BY ADVS.SRI.V.M.KURIAN
SRI.MATHEW B. KURIAN
SRI.K.T.THOMAS
SRI.N.SUNIL

RESPONDENT(S):

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1. STATE OF KERALA
   REPRESENTED BY THE SECRETARY TO GOVERNMENT
   CO-OPERATION DEPARTMENT, GOVERNMENT SECRETARIAT
   THIRUVANANTHAPURAM - 695001.

2. KERALA STATE CO-OPERATIVE EMPLOYEES PENSION BOARD,P.B.NO.85,
   KALA NIVAS, T.C.NO.27/156, 157
   CHINMAYA LANE, NEAR AYURVEDA COLLEGE
   THIRUVANANTHAPURAM -695 001, REP. BY ITS SECRETARY.

3. THE REGISTRAR OF CO-OPERATIVE SOCIETIES
   THIRUVANANTHAPURAM - 695 001.

4. KARIMBAN SERVICE CO-OPERATIVE BANK LTD, NO.K 414,
   MANIPPARA P.O., KARIMBAN, IDUKKI - 685 602
   REP. BY ITS SECRETARY.

R2 BY ADV. SRI.K.R.SUNIL,SC,CO-OP.EMP.PENSION BOAR
R-R4 BY ADV. SRI.GEORGE MATHEW
R BY GOVERNMENT PLEADER SRI.GIKKU JACOB.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 15021 of 2014 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1: TRUE COPY OF THE RESOLUTION NO.5 DATED 28.10.2002 OF THE 4TH RESPONDENT

EXT.P-2: TRUE COPY OF THE DEMAND NOTICE DATED 8.10.2003 ALONG WITH A STATEMENT

EXT.P-3: TRUE COPY OF THE PAY IN SLIP DATED 17.11.2003

EXT.P-4: TRUE COPY OF THE PAY IN SLIP DATED 4.10.2004

EXT.P-5: TRUE COPY OF NOTICE DATED 23.4.2010 ISSUED BY THE THIRD RESPONDENT

EXT.P-6: TRUE COPY OF CIRCULAR NO.3/2012 DATED 7.9.2012 ISSUED BY THE THIRD RESPONDENT

EXT.P-7: TRUE COPY OF THE PAY-IN-SLIP ALONG WITH STATEMENT SHOWING THE DETAILS OF PAYMENT

EXT.P-8: TRUE COPY OF THE ORDER DATED 2.5.2014 ISSUED BY THE THIRD RESPONDENT

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE.

V.CHITAMBARESH, J.

W.P (C) No.15021 of 2014

Dated this the 5th day of March, 2015

J U D G M E N T

Clause 20(3) of the Co-operative Societies Pension Scheme, 1994 relied on by the second respondent to limit the pension of the petitioner reads as follows:-

> 20. Superannuation Pension:-
> (1) x x x x
> (2) x x x x
> (3) The rate of superannuation pension shall be reduced in proportion to the length of service provided that the minimum superannuation pension shall be six hundred rupees per mensum.
> Provided that an employee who retires and who has not already enrolled in the pension scheme, shall get arrears of pension only with effect from the month on which the society remits the total pension contribution with interest thereof.

2. The proviso to Clause 20(3) is clear enough to hold that it would apply only to employees who retires hereafter. The proviso was substituted by SRO.No.725/10 dated 21.7.2010 much after the petitioner retired from service on 31.1.2010. It needs no elaboration to hold that the proviso to clause 20(3) of

the Co-operative Societies Pension Scheme, 1994 does not apply to the petitioner.

3. The fact that the pension fund contribution was made by the fourth respondent Bank belatedly and that the petitioner was enrolled in the Pension Scheme on 17.12.2013 only has no relevance. This is because the pension found contribution though remitted belatedly would be collected with interest from the fourth respondent Bank by the second respondent Board as per Clause 38 of the Co-operative Societies Pension Scheme, 1994. The date of remittance of the pension fund contribution has no impact on limiting the pension which is controlled only by Clause 20(3) of the Co-operative Societies Pension Scheme, 1994.

4. The second respondent Board shall verify whether any pension contribution is in deficit to be paid by the fourth respondent Bank. The said intimation shall be issued within a period of three weeks from today. The fourth respondent Bank shall also make up the deficit if any in the pension contribution to the second respondent Board promptly. The arrears of

pension without any limitation shall be disbursed to the petitioner within a period of two months from today.

5. It is clarified that the disbursement of the arrears to the petitioner is not dependent on the fourth respondent Bank making up the deficit in pension contribution to the second respondent Board.

The Writ Petition is disposed of.

Sd/-
V.CHITAMBARESH,
Judge.

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