

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

WP(C).No. 25240 of 2005 (D)

PETITIONER:

**S.SHAJAHAN, CHARUVILA VEEDU,
KOTTUKKAL P.O. ANCHAL VIA, KOLLAM 691 519.**

**BY ADVS.SRI.A.N.RAJAN BABU
SMT.K.SUNITHA VINOD
SRI.JOSEPH KODIANTHARA
SRI.MITHUN MARKOS**

RESPONDENTS:

- 1. UNION OF INDIA, REPRESENTED BY MINISTRY
OF FINANCE, GOVERNMENT OF INDIA, NEW DELHI.**
- 2. THE RUBBER BOARD, REPRESENTED BY ITS
CHAIRMAN, KEEZHUKUNNU, KOTTAYAM.**
- 3. M/S.SAHYADRI RUBBERS PVT.LTD. A JOINT
VENTURE OF RUBBER BOARD AND RUBBER PRODUCERS
SOCIETIES, REPRESENTED BY ITS MANAGING DIRECTOR
NEAR SREE KRISHNAN KOVIL, THOLICODE P.O. PUNALUR
691 333.**

**R1 & R2 BY ADV. SRI.JAYAPRADEEP. V., ADDL.CGSC
R3 BY ADV. SRI.JOSEPH KODIANTHARA
R3 BY ADV. SRI.MATHEWS K.UTHUPPACHAN
R3 BY ADV. SRI.MITHUN MARKOS
R BY SRI.JOSEPH MARKOSE,SC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- P1 : TRUE COPY OF APPOINTMENT LETTER OF THE PETITIONER
NO.ADMN/1/97 DATED 26.2.1997 OF THE 3RD RESPONDENT
- P2 : TRUE COPY OF THE NOTIFICATION DATED 30.9.1997
- P2(A) : TRUE COPY OF CIRCULAR REF.NO.F74/CAU/2-1/PAY REVISION /97
DATED 9.10.1997 ISSUED BY THE RUBBER BOARD
- P3 : TRUE COPY OF THE LETTER NOE&A/CAU/2-1/PAY REVISION/97 DATED
13.10.1997 OF THE RUBBER BOARD
- P4 : TRUE COPY OF REPRESENTATION SUBMITTED BY THE PETITIONER
BEFORE THE 3RD RESPONDENT
- P5 : TRUE COPY OF A STATEMENT OF DETAILS OF SALARY AND
ALLOWANCES ARRESRS FOR THE PERIOD MARCH 1997 TO JANUARY
2005 DUE TO THE PETITIONER
- P6 : TRUE COPY OF RELIEVING ORDER OF THE PETITIONER DATED
28.1.2005

RESPONDENT'S EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 25240 of 2005 (D)

Dated this the 5th day of October, 2015

J U D G M E N T

The petitioner is aggrieved with the Dearness Allowance having not been paid in accordance with Ext.P1. Ext.P1 is the appointment order of the petitioner as Junior Assistant in the 3rd respondent Company, which is a joint venture of the 2nd respondent and a Society; incorporated as a Private Limited Company. The petitioner asserts that in the appointment letter itself, the petitioner was stated to be entitled to Dearness Allowance and other allowances at the rates admissible to the Rubber Board employees; which however was not paid.

2. The petitioner's contention is that Ext.P2 revision of pay, which was in pursuance of the 5th Pay Commission recommendation, was not made applicable to the 3rd respondent Company.

3. The learned counsel for the respondent submits that the 3rd respondent being a Private Limited Company, is entitled to decide on its own accord as to whether the Pay Commission recommendations would be applicable to the employees of the Company. What is stated in Ext.P1 is only that, at the time of appointment, the Dearness Allowance and other allowances as applicable to the employees of the Rubber Board would be entitled to the respondent's employees also. However, if the pay of the Rubber Board employees is revised in accordance with the Pay Commission recommendation, that is not strictly applicable to the respondent Company, unless a decision is taken by its Board, to adopt the same.

4. In any event, it is to be noticed that the petitioner continued through 1997 till 2005, when he resigned from the services of the Company. The Pay Revision as per Ext.P2 was implemented in the Rubber Board on

30.09.1997. The petitioner, at no time when he was in service raised a dispute as to the denial of the Dearness Allowance. The petitioner, if at all, entitled to Dearness Allowance at the rates applicable to the Rubber Board, ought to have approached the appropriate forum immediately on denial of the same. The petitioner slept over his rights and in any event the petitioner had an effective remedy before the Labour Court under Section 33C(2) of the Industrial Disputes Act.

In the teeth of such findings, this Court is of the opinion that nothing survives in the writ petition and the same is dismissed.

Sd/-
K.VINOD CHANDRAN,
JUDGE