

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

WP(C) .No. 17705 of 2013 (K)

PETITIONERS:

1. GEETHA P.S.
W/O.ACHUTHAN, SPINNING INSTRUCTOR(RETIRE)
PALLAYIL HOUSE, PERINJANAM WEST P.O, IRINJALAKUDA
THRISSUR DISTRICT PIN 680 686
2. LAKSHMIKUTTY A,
W/O.ACHUTHAN NAIR, SPINNING INSTRUCTOR(RETIRE)
CHERATTE HOUSE, THALORE P.O, THRISSUR DISTRICT
3. INDIRA A.K
W/O.KRISHNAN V.N, AMBAR INSTRUCTOR (RETIRE)
VADAKKOTHU HOUSE, KADAVAKKARA, CHETTIOSSERY
THRISSUR DISTRICT PIN 680 301
4. P.D MARY KUNJU,
W/O.JOHN Y, SPINNING INSTRUCTOR (RETIRE)
VADAKKINIYADATH HOUSE, P.O.ALATHUR, ANNAMANADA (VIA)
THRISSUR DISTRICT PIN 680 741
5. RATHNAKUMARI P.K,
W/O.JANARDHANAN K, SPINNING INSTRUCTOR(RETIRE)
KUZHIKKATTIL HOUSE, P.O MANAKULANHGARA, KODAKARA
THRISSUR DISTRICT PIN 680 684
6. VALSALA KUMARI E.R
W/O.CHEKKUTTY K.A
WEAVING INSTRUCTOR(RETIRE) KAARIYANKOD HOUSE
P.O ELANAD, KIZHAKKUMURI, CHELAKKARA (VIA)
THRISSUR DISTRICT PIN 680 580
7. ELSY V.K,
W/O.T.P LOUIS, LOOM INSPECTOR(RETIRE)
THALAKKOTTOOTR HOUSE, NETTISSEY P.O, MUKKATTUKARA
THRISSUR DISTRICT PIN 680 657
8. SARADA T.V
W/O.KRISHNANKUTTY A.V
SPINNING INSTRUCTOR(RETIRE), ANTHIKKATTU HOUSE
M.G NAGAR, POONKUNNAM P.O, THRISSUR DISTRICT
9. MARY A.M,
W/O.RAPHAL, SPINNING INSTRUCTOR(RETIRE)
CHEMMINICHERRY HOUSE, PERAMBRA P.O, THRISSUR DISTRICT

10. VILASINI A
W/O.RADHAKRISHNAN
SPINNING INSTRUCTOR (RETIRED), KOCHATH HOUSE
ANIZHAM THRIKKUR P.O, PULLOOR (VIA) THRISSUR DISTRICT
 11. K.P NARAYANAN, S/O.PARAMESWARAN NAMBEESAN,
KALADIVADAKKEPUSHPAKAM, KARIATTUKARA, P.O.ELTHURUTHY
THRISSUR DISTRICT PIN 680 611
 12. REETHA T.L,
W/O.PORINCHU
WEAVING INSTRUCTOR (RETIRED) VALLIKKADAN HOUSE
PEECHI P.O, THRISSUR DISTRICT PIN 680 653
- BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS:

1. DIRECTOR, KERALA KHADI AND VILLAGE INDUSTRIES BOARD
THIRUVANANTHAPURAM 695 001
2. KERALA KHADI AND VILLAGE INDUSTRIES BOARD,
THIRUVANANTHAPURAM 695 001

R BY ADV. SRI.TOM K.THOMAS, SC KKVIB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
19-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) .No. 17705 of 2013 (K)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1 TRUE COPY OF THE JUDGMENT IN WPC NO 2115 OF 2008
DT 4-3-2008

EXHIBIT P2 TRUE COPY OF THE ORDER DATED 23-07-2010 ISSUED BY
THE 2ND RESPONDENT

RESPONDENT(S) ' EXHIBITS: NIL

TRUE COPY

PA TO JUDGE

SCL.

A. V. RAMAKRISHNA PILLAI, J.

W.P.(C) No.17705 of 2013

Dated this the 19th day of January, 2015.

JUDGMENT

The petitioners have come up before this Court alleging that in spite of the direction issued by the respondents vide Ext.P2 order, the respondents till this date has not disbursed any amount towards gratuity for the period of service of the petitioners prior to the date of regularisation of their service.

2. Petitioners are the retired employees of the respondent Board. All of them joined service during 1980. Their service with the Board was regularized only on 7.7.1999. According to the petitioners, at the time of their superannuation, they were paid gratuity only for the period of their service starting from the date of regularisation of service ie, from 7.7.1999. During the period of their retirement, the dispute was pending before this Court in W.P.(C) No.2115 of 2008 between the Project Officer & the Secretary to the second respondent Board and a retired employee of the Board

regarding the eligibility for gratuity regarding the Payment of Gratuity Act. The said writ petition was disposed of by Ext.P1, finding that the denial and non-payment of gratuity without taking into account the continuous service of the petitioners and on the ground that the service of the petitioners were regularised only on 7.7.1999, was illegal and improper. It was also observed that the fact that the petitioners therein chose to regularise the service of the respondents therein only on 7.7.1999 did not make any difference as far as Payment of Gratuity Act is concerned. Thus, the respondents in that writ petition ie, the employees of the second respondent Board was found to be having a continuous service as defined under the Payment of Gratuity Act and entitled to the gratuity for the continuous service.

3. Subsequently, on 23.7.2010, the respondent Board vide Ext.P2 order accorded sanction to disburse gratuity to seven persons listed in the order and also ordered that the gratuity amount shall also be paid to all other similarly situated

retired Spinning/Weaving Instructors. There was a further direction in Ext.P2 order to the Establishment Section to prepare a list of eligible Weaving Instructors along with eligible gratuity amount and that the respective Project Officers should disburse the amount with immediate effect. The petitioners grievance is that, in spite of the direction issued by the respondent vide Ext. P2 order, the respondents have not disbursed any amount towards gratuity for the period of service of the petitioners prior to the date of regularisation of their service.

4. Arguments have been heard.

5. It is settled by Ext.P1 judgment of this Court that, the fact that the service of the employees of the Board was regularised only on 7.7.1999 does not make any difference as far as Payment of Gratuity Act is concerned. It is crucial to note that as per Ext.P2 order, the respondents had accorded sanction for the disbursement of eligible gratuity amount to all other similarly situated retired spinning/weaving instructors,

who are otherwise not eligible for gratuity under the Kerala Service Rule Part III. Therefore, the writ petitioners herein who are similarly situated ought to have been paid the balance gratuity amount without delay.

6. The learned standing counsel appearing for the respondents Board submitted that the respondent Board is ready to disburse the gratuity to the petitioners within a time frame. On a consideration of the entire materials placed on record, this Court is of the view that the respondents can be given a breathing time of two months to disburse the gratuity to the petitioners.

Therefore, the writ petition is disposed of directing the respondents to disburse the gratuity to the petitioners within a period of two months from today.

Sd/-
A. V. RAMAKRISHNA PILLAI
JUDGE

Scl.