

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

WP(C).No. 15198 of 2015 (Y)

PETITIONER:

K.C.THANKACHAN,
KUNNUMPURATH HOUSE, KODUMPADY POST, PALA.

BY ADVS.SRI.MATHEW JOHN (K)
SRI.DOMSON J.VATTAKUZH

RESPONDENTS:

1. THE KERALA STATE CO-OPERATIVE EMPLOYEES PENSION BOARD,
REPRESENTED BY ITS SECRETARY
OFFICE OF THE KERALA STATE
CO-OPERATIVE EMPLOYEES PENSION BOARD,
P.B.NO.85, T.C.NO.27/156, 157 KALA NIVAS
CHINMAYA LANE, KUNNUMPURAM,
THIRUVANANTHAPURAM-695 001.
2. THE SECRETARY,
THE KERALA STATE CO-OPERATIVE EMPLOYEES PENSION BOARD,
REPRESENTED BY ITS SECRETARY,
OFFICE OF THE KERALA STATE CO-OPERATIVE
EMPLOYEES PENSION BOARD,
P.B.NO.85, T.C.NO.27/156, 157 KALA NIVAS,
CHINMAYA LANE, KUNNUMPURAM,
THIRUVANANTHAPURAM-695 001.
3. THE NEELUR SERVICE CO-OPERATIVE BANK LTD.
NO.K.51, NEELUR POST-686 651.

R1-R2 BY ADV. SRI.K.R.SUNIL, SC
R3 BY ADV. SRI.GEORGEKUTTY MATHEW

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
14-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

P1: TRUE COPY OF THE MEMORANDUM OF COMPROMISE BETWEEN THE PETITIONER AND 3RD RESPONDENT DATED 7-5-2010 ALONG WITH ITS ENGLISH TRANSLATION.

P2 : TRUE COPY OF THE AWARD DATED 18-5-2010 IN ARC NO.173/2008.

P3 : TRUE COPY OF THE RESOLUTION DATED 5-12-2012 BY THE 3RD RESPONDENT ALONG WITH ITS ENGLISH TRANSLATION.

P4 : TRUE COPY OF THE REPLY BY THE PUBLIC INFORMATION OFFICER DATED 6-6-2013 ALONG WITH ACCOMPANIMENTS ALONG WITH ITS ENGLISH TRANSLATION.

P5 : TRUE COPY OF THE LETTER DATED 11-11-2013 TO THE PETITIONER ALONG WITH ITS ENGLISH TRANSLATION.

P6 : TRUE COPY OF THE PENSION PAYMENT ORDER NO.1133/KTM FORWARDED TO PETITIONER BY 2ND RESPONDENT.

P7 : TRUE COPY OF THE PROCEEDINGS OF THE SECRETARY, KERALA STATE CO-OP. EMPLOYEES PENSION BOARD DATED 13-11-2013.

P8 : TRUE COPY OF LETTER DATED 13-11-2013 BY 2ND RESPONDENT.

P9 : TRUE COPY OF THE LETTER BY THE PETITIONER DATED 5-12-2013 TO THE PRESIDENT/BOARD OF DIRECTORS OF 3RD RESPONDENT.

P10 : TRUE COPY OF THE LETTER BY PETITIONER TO ADDL.REGISTRAR OF CO-OP. SOCIETY DATED 10-12-2013.

P11 : TRUE COPY OF THE LETTER DATED 10-12-2013 TOGETHER WITH ACCOMPANIMENTS TO ADDL. REGISTRAR OF CO.OP SOCIETY.

P12 : TRUE COPY OF THE LETTER DATED 26-2-2015 TOGETHER WITH CONNECTED RECORDS BY THE 3RD RESPONDENT.

RESPONDENTS' EXHIBITS : NIL

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 15198 of 2015 (Y)

Dated this the 14th day of July, 2015.

JUDGMENT

Heard the learned counsel for the petitioner, the learned counsel for respondents 1 and 2 and the learned counsel for the respondent Bank, apart from perusing the record.

2. The petitioner, having worked as Senior Clerk in the 3rd respondent Bank, in course of time took voluntary retirement. As part of departmental enquiry sought to be initiated against the petitioner, he was placed under suspension while he was in service. Eventually, when a dispute was raised before the learned Arbitration Court, based on Ext.P1 memorandum of compromise entered into between the management of the third respondent Bank and the Petitioner, Ext.P2 award was passed reinstating the petitioner.

3. Ventilating his grievance that respondents 1 and 2 while calculating his pension have not taken into account the period of suspension as part of service, the petitioner has filed the present writ petition.

4. The learned counsel for the petitioner has submitted that

the ratio laid down in the judgment dated 27.01.2015 in W.P.(C) No. 25840 of 2008 squarely covers the issue. The learned counsel for respondents 1 and 2 has not disputed the same.

In the facts and circumstances, this writ petition is disposed of in terms of the ratio laid down in the aforesaid judgment, with a direction to respondents 1 and 2 to re-calculate the petitioner's pension, duly taking into account the period under which the petitioner had been under suspension while he was in service. It is further made clear that respondents 1 and 2 are at liberty to realise the arrears of pension contribution, if any, from the third respondent, the employer.

sd/- DAMA SESHADRI NAIDU, JUDGE.

rv

