

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K. VINOD CHANDRAN

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

WP(C).No. 19732 of 2008 (Y)

ID 16/2004 of LABOUR COURT, KOLLAM

PETITIONER(S):

SYAMALA DEVI M.K, W/O PONNAPPAN PILLAI,
KULANGARA VEEDU, NEELEESWARAM PO, KOTTARAKARA
KOLLAM -601506

BY ADV. SRI.S.SHARAN

RESPONDENT(S):

1. THE PRESIDENT, KOTTARAKKARA KSHEERODPADAKA
SAHAKARAN SANGHAM NO.Q.311
KOTTARAKKARA, KOLLAM DISTRICT
2. DEPUTY DIRECTOR,
DAIRY DEVELOPMENT DIRECTOR, KOLLAM
3. THE SECRETARY, DAIRY DEVELOPMENT
DEPARTMENT, THIRUVANANTHAPURAM
4. STATE OF KERALA, REP. BY SECRETARY
TO GOVERNMENT, DAIRY DEVELOPMENT DIRECTORATE
SECRETARIAT, THIRUVANANTHAPURAM

BY SRI.P.GOPINATHAN NAIR
BY GOVERNMENT PLEADER SRI. MANOJ KUNJACHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXHIBITS

- P1- A TRUE COPY OF THE AWARD I.D.NO.16/2004 DTD.9/10/2006 BEFORE THE LABOUR COURT, KOLLAM
- P2- A TRUE COPY OF THE LETTER NO.A3/2926/07 DATED 26.10.2007 ISSUED BY R2 TO R1
- P3- A TRUE COPY OF THE LETTER DATED NIL ISSUED BY R1 TO R2
- P4- A TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER DATED NIL FILED BEFORE R4.

//True Copy//

P.A. To Judge

K.VINOD CHANDRAN, J

W.P.(C).No. 19732 of 2008

Dated 19th February, 2015

JUDGMENT

The petitioner, an employee seeks implementation of Ext.P1 Award. The petitioner's claim before the Labour Court, Kollam, was denial of employment; more specifically, she was not allowed to join duty after she returned from leave. The Labour Court considered the issue and ordered reinstatement with 25% back wages. The petitioner contends that, the said order has not been implemented and seeks implementation by the above writ petition under Article 226 of the Constitution of India.

2. Primarily it is to be noticed that the Management in the dispute is a Co-operative Society which would not come within the definition of a state under Article 12 of the Constitution of

India. Further, there is an alternate remedy available before the Labour Court under Section 33C (2) of the Industrial Disputes Act, 1947 (ID Act). It is also to be observed that, the question of delay would not be a reigning consideration since it has been held by the Honourable Supreme Court in Nityanand M. Joshi and Another v. The Life Insurance Corporation of India and Others (AIR 1970 SC, 209) that applications under the I.D Act are not restricted by the Limitation Act, 1963. In any event, it is to be noticed that the above writ petition was pending from 27.06.2008 to today; when the petitioner is to be considered as having *bona fide* prosecuted the issue.

In the above circumstances, leaving open the remedies available to the petitioner, the writ petition would stand closed. Parties are left to suffer their respective costs.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs