

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

WP(C).No. 16219 of 2015 (B)

PETITIONER:

SABU C.S., AGED 48 YEARS,
S/O.LATE SRI.SUBRAMANIAN, RESIDING AT CHERIYATHARA,
KUMBALANGY P.O.,
COCHIN-682 007 (DRIVER GRADE II IN KSRTC EKM DEPOT).

BY ADVS.SRI.P.GOPAKUMARAN NAIR
SRI.C.S.DIAS
SRI.N.K.SUBRAMANIAN
SMT.B.BINDU
SMT.P.K.DHANYA

RESPONDENTS:

1. KERALA STATE ROAD TRANSPORT CORPORATION,
REPRESENTED BY ITS MANAGING DIRECTOR,
TRANSPORT BHAVAN, EAST FORT P.O., THIRUVANANTHAPURAM,
PIN-695 023.
2. FINANCIAL ADVISOR AND CHIEF ACCOUNTS OFFICER,
KERALA STATE ROAD TRANSPORT CORPORATION,
TRANSPORT BHAVAN, EAST FORT P.O., THIRUVANANTHAPURAM,
PIN-695 023.
3. DISTRICT TRANSPORT OFFICER,
KERALA STATE ROAD TRANSPORT CORPORATION,
ERNAKULAM-682 005.
4. KERALA STATE TRANSPORT WORKERS CO-OPERATIVE SOCIETY LTD.
NO.T-133, S.S.KOVIL ROAD, THAMPANOOR,
THIRUVANANTHAPURAM-695 001.

R4 BY ADV. SRI.N.UNNIKRISHNAN,SC KSTW CO.OP. SOCIETY
R1-R3 BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR, SC, KSRTC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
03-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

: 2 :

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : TRUE COPY OF THE PETITIONER'S PAY SLIP FOR FEBRUARY, 2015.

EXT.P2 : TRUE COPY OF THE STATEMENT ISSUED BY R4 DT.14-5-2015.

EXT.P3 : TRUE COPY OF THE CERTIFICATE ISSUED BY R3 DT.12-1-2015 IN FAVOUR OF THE PETITIONER.

EXT.P4 : TRUE COPY OF THE JUDGMENT DT. 1-11-2013 IN WPC 27149 OF 2004 OF THIS HONOURABLE COURT.

RESPONDENTS' EXHIBITS:

EXT.R4(A): TRUE COPY OF THE STATEMENT OF ACCOUNTS AS ON 15.06.2015 TOWARDS LOAN NO. BAL 50641.

ANNEXURE R1(a): TRUE COPY OF RECOVERY AND REMITTANCE DETAILS VIDE LOAN NO.50641, LETTER NO.9783/09 DATED 02.01.2010.

EXHIBIT R4(b): TRUE COPY OF STATEMENT OF ACCOUNTS AS ON 08.09.2015 TOWARDS LOAN NO.BAL 50641.

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 16219 of 2015 (B)

Dated this the 3rd day of November, 2015.

JUDGMENT

Heard the learned counsel for the petitioner, the learned Standing Counsel for the respondent–Corporation and the learned counsel for the 4th respondent, apart from perusing the record.

2. The petitioner, a driver in the first respondent Corporation, availed himself of a personal loan from the 4th respondent and authorised the first respondent to deduct equal monthly instalments (EMIs) from his salary at the rate of ₹ 2650/–.

3. Though the 1st respondent had regularly made the deductions, contends the petitioner, it did not remit them to the 4th respondent. As a result, the petitioner is said to have been made to suffer. Under those circumstances, he has filed the present writ petition.

4. In the light of the pleadings and the counter pleadings filed before this Court by all the parties concerned, it is evident that now the issue of default and the recovery thereof has been the subject

matter of a suit before an Arbitrator. At any rate, the learned counsel for the petitioner contends that admittedly the first respondent Corporation still has to pay an amount of ₹ 16,578/- from and out of the deductions it has so far made.

5. On the other hand, the learned Standing Counsel for the Corporation has submitted that the Corporation has to pay only about ₹10,000/-.

6. At this juncture, the learned counsel for the 4th respondent has submitted that though the principal amount could work out to be ₹10,000/-, the Corporation, owing to its inordinate delay, has to pay interest all of which amounts to ₹ 16,578/- as on 09.09.2015.

7. As can be seen from the record, earlier resolving a similar issue, this Court through Ext.P4 judgment has observed as follows:

"4. From the materials now placed on record, it can be seen that due to the lapse on the part of the 1st respondent in remitting the recovered amounts, an additional payment of Rs. 10,330/- towards interest is due to the 2nd respondent. Therefore, the 1st respondent is duty bound to remit the aforesaid sum of Rs. 10,330/- (Rupees ten thousand three hundred and thirty only). The 1st respondent Corporation shall clear off the liability due to the 2nd respondent within a period of three months from today.

The writ petition is closed. If the petitioner has any grievance that any excess amount has been paid, he shall make a representation to the 1st respondent Corporation, which shall be considered and disposed of in accordance with law."

8. It is evident from the extracted portion of the judgment that this Court has mulcted the Corporation with interest on the delayed remittance of the instalments it had earlier deducted.

9. In the facts and circumstances, this Court, following the dictum of the above quoted judgment, directs the first respondent Corporation to pay to the 4th respondent the balance amount it retained from and out of the EMIs it had deducted from the petitioner's salary, along with interest based on the ratio laid down by this Court in Ext.P4 judgment.

10. It is further observed that since the substantial issue of the default and the recovery thereof have already been seized of by a competent forum, i.e., the Arbitration Court, it is left open for the petitioner and the 4th respondent to urge all the legally permissible pleas in support of their respective contentions before the said forum.

With the above observation, this writ petition stands disposed of.

sd/- DAMA SESHADRI NAIDU, JUDGE.

rv

