

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE**

**THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936**

**WP(C).No. 16668 of 2014 (G)**  
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**PETITIONER:**  
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**P.G.RAVI,  
PULLIYANIKKATTIL (HOUSE),  
EDAYAR P.O., KOOHATTUKULAM,  
ERNAKULAM DISTRICT.**

**BY ADVS.SMT.P.DEEPTHI  
SRI.SABU JOHN**

**RESPONDENT(S):**  
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**MANAGING DIRECTOR,  
MEAT PRODUCTS INDIA LTD.,  
EDAYOOR P.O.,  
KOOHATTUKULAM, PIN - 686 002.**

**\*ADDL. R2 IMPEADED**

**2. THE SECRETARY,  
MEAT PRODUCTS OF INDIA EMPLOYEES  
CO-OPERATIVE SOCIETY LTD. NO.E-785,  
EDAYAR PO., KOOHATTUKULAM,  
ERNAKULAM DISTRICT.**

**ADDL.R2 IS IMPEADED AS PER ORDER  
DATED 16.12.2014 IN IA 16909/14.**

**BY ADV. SRI.MILLU DANDAPANI**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 05-03-2015, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:**

**mbr/**

**APPENDIX**

**PETITIONER(S)' EXHIBITS:**

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- EXT P1-        TRUE COPY OF THE LETTER DATED 31.12.2013.
- EXT P2-        TRUE COPY OF THE LETTER DATED 22.1.2014 FOR THE DEPOSIT OF  
GRATUITY AMOUNT.
- EXT P3-        TRUE COPY OF THE LATTER ISSUED FOR THE LEAVE SURRENDER  
DATED 31.12.2013.
- EXT P4-        TRUE COPY OF LETTER OF PENSION PAYMENT ORDER  
DATED 26.3.2014.
- EXT P5-        TRUE COPY OF THE REPRESENTATION DATED 17.3.2013 APPENDED  
WITH JUDGMENT OF THE HON'BLE SUPREME COURT.

**RESPONDENT(S)' EXHIBITS:**

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- EXT.R1(A) :    TRUE COPY OF THE LETTER DATED 21.5.2014 ISSUED BY THE  
SECRETARY, MEAT PRODUCTS OF INDIA EMPLOYEES' CO-OPERATIVE  
CREDIT SOCIETY LIMITED.
- EXT.R1(B) :    TRUE COPY OF THE APPOINTMENT ORDER DATED 3.5.2006 OF  
SRI.ANJU AUGUSTINE AS OFFICE ASSISTANT.
- EXT.R1(C) :    TRUE COPY OF THE LETTER DATED 27.3.2014 ISSUED BY THE  
MANAGING DIRECTOR OF MEAT PRODUCTS INDIA LTD.

/TRUE COPY/

P.S. TO JUDGE

mbr/

**A.MUHAMED MUSTAQUE, J.**

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**W.P.(C) No.16668 of 2014**

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**Dated this the 5<sup>th</sup> day of March, 2015**

**JUDGMENT**

The petitioner retired from the service of the first respondent on 31.12.2013. The petitioner has approached this Court on account of delay in disbursing gratuity.

2. In this matter, a counter affidavit has been filed by the first respondent. It is stated in the counter affidavit that the second respondent raised an objection in releasing the gratuity of the petitioner. Ext.R1(a) is the communication issued by the second respondent to the first respondent to recover the loss suffered by the Society from the petitioner's gratuity.

3. Section 4 (6) of the Payment of Gratuity Act, 1972 ( for short, the 'Gratuity Act') reads as follows:

Notwithstanding anything contained in sub-section (1),-

- (a) the gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer shall be forfeited to the extent of the damage or loss so caused;
- (b) the gratuity payable to an employee (may be wholly or partially forfeited)
  - (i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or
  - (ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.

4. The gratuity can be forfeited only in accordance with Section 4 (6) of the Gratuity Act. The respondents have no case that the petitioner's service has been terminated on any of the grounds referred in Section 4 (6) of the Gratuity Act.

5. The case of the first respondent is that the petitioner has liability towards second respondent Society and therefore, the gratuity has been withheld.

6. If the petitioner has a liability to the second respondent Society, it is for the second respondent Society to recover the same from the petitioner in an appropriate manner. There is no Rule/Provision relied by the first respondent to withhold the gratuity payable to the employee on account of any dues to the Society, which was formed in the first respondent Company by the employees.

In the facts and circumstances, there shall be a direction to the first respondent to release the gratuity due to the petitioner within a period of six weeks from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

Sd/-

**A.MUHAMED MUSTAQUE, JUDGE**

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