

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 17611 of 2014 (B)

PETITIONER:

**P. NARAYANAN NAIR, AGED 61 YEARS
S/O.PADMANABHAN PILLAI, T.C.24/236, THYCAUD P.O.
THIRUVANANTHAPURAM-14.**

**BY ADVS.SRI.SUMAN CHAKRAVARTHY
SMT.K.R.RIJA**

RESPONDENTS:

- 1. THE REGISTRAR OF CO-OPERATIVE SOCIETIES
THIRUVANANTHAPURAM - 695 001**
- 2. THE ASST.REGISTRAR
SECRETARY, POSTAL, TELECOM
BSNL EMPLOYEES CO-OPERATIVE SOCIETY LTD.NO.1940
THIRUVANANTHAPURAM-01.**
- 3. THE PRESIDENT
MANAGING COMMITTEE, POSTAL, TELECOM
BSNL EMPLOYEES CO-OPERATIVE SOCIETY LTD.NO.1940
THIRUVANANTHAPURAM-695 001.**
- 4. POSTAL
TELECOM
BSNL EMPLOYEES CO-OPERATIVE SOCIETY LTD.NO.1940
STATUE
THIRUVANANTHAPURAM-695 001
REPRESENTED BY ITS SECRETARY.**

**R1 BY GOVERNMENT PLEADER SRI. GIKKU JACOB
R2 TO R4 BY ADV. SRI.V.V.SURESH**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
25-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

DCS

WP(C).No. 17611 of 2014 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : COPY OF THE EXTRACT OF THE DECISION NO. VI DATED 20.07.00

P2 : COPY OF THE NOTICE DATED 08.05.2012

P3 : COPY OF THE MEMORANDUM DATED 25.05.2012

P4 : COPY OF THE COMMUNICATION DATED 19.12.2012

P5 : COPY OF THE REPRESENTATION DATED 14.08.2013

P6: COPY OF THE AUDIT REPORT DATED 20.06.2011

RESPONDENT(S)' EXHIBITS:- NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO. 17611 OF 2014

Dated this the 25th day of February, 2015

JUDGMENT

The pay of the petitioner was re-fixed by Ext. P1 resolution dated 20.07.2000. The petitioner retired as the Secretary of the fourth respondent society on 31.05.2010. It was only on 08.05.2012 that Ext. P2 demand notice was served on the petitioner.

2. The reason stated in Ext.P2 notice is that there was a wrong fixation of pay by Ext. P1 resolution. This was detected only by Ext. P6 audit report dated 20.06.2011. The pay was re-fixed as early as on 20.07.2000 and the recovery of the amount allegedly paid in excess was attempted to be made for the first time on 08.05.2012.

3. More than twelve years have elapsed since the allegedly erroneous fixation of pay. There is nothing to show that the petitioner had contributed to the erroneous fixation of pay. Moreover four and half years have already elapsed since the date of retirement of the petitioner.

It will be unjust to effect any recovery from the pay already made at this distance of time.

Ext. P2 is quashed and the writ petition is allowed.

**V. CHITAMBARESH
JUDGE**

DCS