

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

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

WP(C).No. 20620 of 2011 (B)

PETITIONER(S):

**M.MADHAVAN, PEON,
DISTRICT CO-OPERATIVE BANK (EVENING BRANCH)
KANHANGAD-671001, KASARGOD DIST.**

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENT(S):

- 1. THE KASARGOD DISTRICT CO-OPERATIVE
BANK LTD REPRESENTED BY THE GENERAL MANAGER
KASARGOD DISTRICT CO-OPERATIVE BANK LTD.
NAYAK'S ROAD, KASARGOD 671121.**
- 2. GENERAL MANAGER, KASARGOD DISTRICT
CO-OPERATIVE BANK LTD. NAYAK'S ROAD
KASARGOD 671121.**

**R,R1 & 2 BY ADV. SRI.M.SASINDRAN,SC,KASARGOD DIST.CO.BAN
R BY ADV. SRI.JAWAHAR JOSE, SC, KASARAGOD DIST. CO.OP BANK LTD.**

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

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APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. TRUE COPY OF THE APPOINTMENT ORDER

EXHIBIT P2. TRUE COPY OF THE PROVISIONAL SENIORITY LIST OF PART TIME SWEEPERS

EXHIBIT P3. TRUE COPY OF THE PROCEEDINGS DATED 9.02.2011.

EXHIBIT P4. TRUE COPY OF THE CERTIFICATE

EXHIBIT P5. TRUE COPY OF THE MEMO DATED 11.07.2002

EXHIBIT P6. TRUE COPY OF THE ORDER DATED 24.12.2002

EXHIBIT P7. TRUE COPY OF THE EMPLOYMENT CERTIFICATE ISSUED BY THE BANK TO THE PETITIONER.

EXHIBIT P8. TRUE COPY OF THE SENIORITY LIST OF THE EMPLOYEES OF THE BANK AS ON 30.11.2005.

EXHIBIT P9. TRUE COPY OF THE ORDER DATED 31.01.2006.

EXHIBIT P10. TRUE COPY OF THE ORDER DATED 10.02.2006.

EXHIBIT P11. TRUE COPY OF THE ORDER DATED 20.06.2007.

EXHIBIT P12. TRUE COPY OF THE CERTIFICATE DATED 18.10.2007.

EXHIBIT P13. TRUE COPY OF THE PROVISIONAL SENIORITY LIST OF EMPLOYEES AS ON 31.7.2007.

EXHIBIT P14. TRUE COPY OF THE FINAL SENIORITY LIST.

EXHIBIT P15. TRUE COPY OF THE MEMO DATED 30.04.2008.

EXHIBIT P16. TRUE COPY OF THE MEMO DATED 6.06.2011.

EXHIBIT P17. TRUE COPY OF THE REPLY DATED 14.06.2011.

EXHIBIT P18.TRUE COPY OF THE MEMO DATED 21.06.2011.

EXHIBIT P19. TRUE COPY OF THE UNDATED REPLY SUBMITTED BY THE PETITIONER.

EXHIBIT P20. TRUE COPY OF THE NOTICE DATED 1.07.2011.

EXHIBIT P21. TRUE COPY OF THE HOROSCOPE OF THE PETITIONER.

EXHIBIT P22. TRUE COPY OF THE PROCEEDINGS DATED 24.12.2005 TOGETHER WITH RELEVANT EXTRACT OF CASH CREDIT REGISTER.

EXHIBIT P23. TRUE COPY OF THE PROCEEDINGS DATED 13.04.2006 TOGETHER WITH THE RELEVANT EXTRACT OF CASH CREDIT REGISTER.

EXHIBIT P24. TRUE COPY OF THE PROCEEDINGS DATED 3.07.2007 TOGETHER WITH THE RELEVANT EXTRACT OF CASH CREDIT REGISTER.

RESPONDENT(S)' EXHIBITS

EXHIBIT R1(a). TRUE COPY OF THE CERTIFICATE ISSUED BY THE HEADMASTER, G.U.P.SCHOOL, HOSDURG KADAPPURAM.

EXHIBIT R1(b). TRUE COPY OF THE MEMO DATED 3.12.2009 ISSUED BY THE BANK TO THE PETITIONER.

EXHIBIT R1(c). TRUE COPY OF THE REPLY DATED 7.12.2009 SUBMITTED BY THE PETITIONER BEFORE THE BANK.

EXHIBIT R1(d). TRUE COPY OF THE REQUEST DATED 26.12.2002 SUBMITTED BY THE PETITIONER BEFORE THE BANK.

EXHIBIT R1(e). TRUE COPY OF THE REPLY DATED 28.06.2011 BY THE PETITIONER BEFORE THE BANK IN REPLY TO EXT.P18.

//TRUE COPY//

P.A. TO JUDGE

Imp

V.CHITAMBARESH, J.

W.P.(C) No.20620 of 2011

Dated this the 19th day of February, 2015

JUDGMENT

The petitioner who entered service as a part time sweeper in the first respondent bank has already retired as a peon. The petitioner contends that his date of birth is 18.07.1956 and that he attained the age of superannuation on 30.11.2014. The first respondent bank on the other hand maintains that the date of birth of the petitioner is 18.07.1953 and that his age of superannuation is 30.07.2011.

2. The fact however remains that the petitioner worked till 30.11.2014 by virtue of the interim orders of this court. Nobody has any dispute that work was extracted from the petitioner as a peon during this period. It is only proper that the petitioner is paid his salary till 30.11.2014 lest it amounts to forced labour.

3 The question whether the date of birth is 18.07.1953 or 18.07.1956 does not assume any significance now. I am also conscious of the fact that the petitioner was permitted to work till 30.11.2014 by this

court without receiving any pay and allowances. But now the petitioner has been relieved and another has been appointed in his place to discharge the functions of a peon.

4. Interest of justice would be met by directing the first respondent bank to disburse the pay (salary arrears) to the petitioner till 30.11.2014. The petitioner is however not entitled to any other monetary benefits for the extended period. The pensionary benefits for the undisputed period shall however be disbursed to the petitioner without delay.

The writ petition is disposed of. No costs.

Sd/-
V.CHITAMBARESH, JUDGE

lmp

//TRUE COPY//

P.A. TO JUDGE

