

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C).No. 21660 of 2013 (F)

PETITIONER : -

B.S.SANJEEV, APPRAISER,
MATTANCHERRY SARVAJANIK CO-OPERATIVE BANK LTD.NO.3284,
FORT KOCHI, ERNAKULAM, PIN 682 001.

BY ADV.SRI.P.PJACOB

RESPONDENTS :-

1. MATTANCHERRY SARVAJANIK CO-OP.BANK LTD.NO.3284,
FORT KOCHI, ERNAKULAM, PIN 682 001,
REPRESENTED BY ITS SECRETARY/ MANAGING DIRECTOR
2. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G),
KAKKANAD,
OFFICE OF THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES,
KAKKANADU, ERNAKULAM, PIN 682 030.
3. THE KERALA CO-OPERATIVE EMPLOYEES PENSION BOARD,
PB NO.85, KALA NIWAS, TC NO.27/156, 157,
CHINMAYA LANE, KUNNUMPURAM, NEAR AYURVEDA COLLEGE,
THIRUVANANTHAPURAM, PIN 695 001.

R3 BY ADV.SRI.K.R.SUNIL,SC,CO-OP.EMP.PENSION BOARD

R1 BY ADV.SRI.T.A.RAJAN, SC

R2 BY GOVERNMENT PLEADER SRI. G. GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
13-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 21660 of 2013 (F)

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT P1 : COPY OF THE ORDER IN WPC 38584/2003 DATED 5/4/2004.

EXHIBIT P2 : COPY OF THE JUDGMENT IN WA 1765/2003 DATED 14/6/2005.

EXHIBIT P3 : COPY OF THE ORDER OF THE SUPREME COURT PASSED IN
SPECIAL LEAVE TO APPEAL (CIVIL) 20080/2008 DATED 23/11/2012.

EXHIBIT P4 : COPY OF THE PROCEEDING ISSUED BY THE FIRST RESPONDENT
TO THE PETITIONER DATED 22/5/2013.

EXHIBIT P5 : COPY OF THE REPRESENTATION FILED BEFORE THE FIRST
RESPONDENT BY THE PETITIONER DATED 8/7/2013.

EXHIBIT P6 : COPY OF THE PETITION FILED BEFORE THE SECOND
RESPONDENT BY THE PETITIONER DATED 11/7/2013.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 21660 of 2013

Dated this the 13th day of November, 2015

JUDGMENT

Heard the learned counsel for the petitioner, the learned Standing Counsel for the first respondent Bank and the learned Standing Counsel for the Employees Pension Board, as well as the learned Government Pleader, apart from perusing the record.

2. It took about half a dozen Writ Petitions, a couple of Writ Appeals, and one Special Leave Petition for the petitioner to secure his regularization as an appraiser. In fact, the Honourable Supreme Court, through Exhibit P3 judgment, taking into account the peculiar facts and circumstances of the petitioner's case, directed the first respondent Bank to regularize his services with effect from 23.05.2003.

3. In the course of time, the petitioner, having had his services regularized, submitted a series of representations to the respondent Bank to secure all the service benefits, but to no avail. In that context, the petitioner has eventually filed Exhibit P6 representation before the second respondent.

4. Ventilating his grievance that so far the second respondent has not considered his Exhibit P6 representation,

the petitioner has filed the present writ petition.

5. Incidentally, in this writ petition, apart from seeking the disposal of Exhibit P6 representation by the second respondent, the petitioner has also sought a mandamus to the respondent Bank to contribute to the pension fund for the period from 19.12.1990 till 23.05.2003, the period prior to his regularization. He has also sought the benefit of higher grade pay.

6. Both the learned counsel for the petitioner and the first respondent have extensively argued their respective cases. In the end, the learned Standing Counsel for the first respondent Bank has submitted that, instead of indulging in piecemeal adjudication, this Court may direct the second respondent to consider petitioner's Exhibit P6 representation and also the issues that have been raised in the writ petition concerning the employer's contribution to the pension fund and also higher grade pay.

7. To the credit of the learned Standing Counsel, I may observe that he has specifically stated that the petitioner is at liberty to file, if he desires, a comprehensive application before the second respondent incorporating all the pleas that he has

raised before this Court in the present writ petition.

8. The learned counsel for the petitioner has submitted that the first respondent is bound to contribute towards the pension fund to the extent of 50% of his service between 19.12.1990 and 23.05.2003 when he was admittedly engaged on a commission basis. In this regard, he has placed reliance on Clause 19(1) of the Co-operative Societies Employees Pension Scheme, 1994.

9. The learned counsel has also drawn my attention to G.O.(Ms) No.7/1996/Co-op dated 23.05.1996 and also Circular No.15/97 dated 30.04.1997 to hammer home his point that the petitioner is entitled to higher grade pay owing to the stagnation he has suffered in the same rank as an Appraiser.

10. I do find sufficient force in the contention of the learned Standing Counsel for the first respondent Bank that already an application has been pending with the second respondent concerning the service benefits the petitioner is said to have been entitled to. It is appropriate to direct the second respondent to consider petitioner's Exhibit P6 representation in accordance with law.

11. Further, it is entirely open for the petitioner, if he desires, to submit a comprehensive application before the second respondent concerning the issues of pension contribution and also higher grade pay. In such an eventuality, the second respondent shall consider the claims of the petitioner, taking into account the Government Order and the Circular referred to above.

12. Needless to observe that the second respondent shall render a decision on all the issues compendiously as expeditiously as possible, at any rate, within a period of two months from the date of petitioner's filing a comprehensive application. Given the apprehension expressed by the learned counsel for the petitioner and the learned Standing Counsel for the first respondent, I make it further clear that the second respondent shall provide an opportunity of hearing to both the parties.

With the above observation, this writ petition is disposed of. No order as to costs.

DAMA SESHADRI NAIDU
JUDGE

DMR/-