

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

WP(C).No. 19494 of 2014 (J)

PETITIONER :

**ISSAC T.M., EXECUTIVE OFFICER (RETIRED)
IDUKKI DISTRICT CO-OPERATIVE BANK LTD.,
RESIDING AT THURUTHIYIL HOUSE, KOTTAPPADY P.O.,
KOTHAMANGALAM, ERNAKULAM DISTRICT 686692**

**BY ADVS.SRI.V.G.ARUN
SRI.T.R.HARIKUMAR**

RESPONDENTS :

- 1. THE IDUKKI DISTRICT CO-OPERATIVE BANK LTD.,
IDUKKI COLONY P.O., IDUKKI DISTRICT - 685602
REPRESENTED BY ITS GENERAL MANAGER**
- 2. THE KERALA STATE CO-OPERATIVE EMPLOYEES PENSION BOARD,
REPRESENTED BY ITS SECRETARY, P.B NO 85 KALA NIVAS,
CHINMAYA LANE, KUNNUMPURAM, THIRUVANANTHAPURAM 695001**
- 3. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM - 695001**

**R1 BY ADV. SRI.P.C.CHACKO, SC,
R2 BY ADV. SRI.K.R.SUNIL,SC,
R3 BY GOVERNMENT PLEADER MR. R. PADMARAJ**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28-10-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE REQUEST SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 01-02-2007.
- EXHIBIT P2: COPY OF THE MEMO NO EST/DP/572/TMI/E-8/06-07 ISSUED BY THE 1ST RESPONDENT DATED 24-01-2007.
- EXHIBIT P3: COPY OF THE ORDER DATED 06-09-2007 IN WPC NO 7764 OF 2007.
- EXHIBIT P4: COPY OF THE NOTICE NO EST/DSP/572/TMI/E-8/2007-08 DATED 17-09-2007 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P5: COPY OF THE WRITTEN ARGUMENTS SUBMITTED BY THE PETITIONER ON 28-09-2007.
- EXHIBIT P6: COPY OF THE SUBMISSION MADE BY THE PETITIONER AT THE TIME OF HEARING HELD ON 28-09-2007.
- EXHIBIT P7: COPY OF THE ORDER NO EST/DP/5732TMI/E-80/2007-08 DATED 05-10-2007 ISSUED BY THE FIRST RESPONDENT.
- EXHIBIT P8: COPY OF THE LETTER SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 19-10-2007.
- EXHIBIT P9: COPY OF THE LETTER NO EST.PNS/09-10 DATED 15-03-2010 ISSUED BY THE FIRST RRESPONDENT
- EXHIBIT P10: COPY OF THE COVERING LETTER DATED 30-03-2010 ALONG WITH AFFIDAVIT,SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXHIBIT P11: COPY OF THE LETTER SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 15-01-2011.
- EXHIBIT P12: COPY OF THE COVERING LETTER DATED 15-01-2011 FORWARDING EXT P11 LETTER TO THE 2ND RESPONDENT.
- EXHIBIT P13: COPY OF THE LETTER NO EPS/20/11-12 DATED 31-05-2011 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P14: COPY OF THE LETTER SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 16-06-2011.
- EXHIBIT P15: COPY OF THE COVERING LETTER DATED 16-06-2011 FORWARDING EXT P14 LETTER.
- EXHIBIT P16: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 04-03-2013.
- EXHIBIT P17: COPY OF THE JUDGMENT DATED 27-08-2013 IN WPC NO 7764 OD 2007.

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EXHIBIT P18: COPY OF THE MINUTES OF THE SUB COMMITTEE DATED 28-09-2013.

**EXHIBIT P19: TRUE COPY OF THE COMMUNICATION DATED 12-10-2013 ISSUED BY
THE FIRST RESPONDENT TO THE PETITIONER.**

EXHIBIT P20: COPY OF THE PROCEEDING NO PB PPO91/IDY/DB DATED 17-05-2014.

**EXHIBIT P21: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER
BEFORE THE 1ST RESPONDENT DATED 19-05-2014**

RESPONDENT(S)' EXHIBITS : NIL.

//TREU COPY//

P.A. TO JUDGE

bp

A.M.SHAFIQUE, J

W.P.C.No.19494 of 2014

Dated this the 28th day of October 2015

J U D G M E N T

Petitioner has approached this Court seeking for a direction to the 2nd respondent to sanction pension to the petitioner with effect from 01/02/2007 and to pay arrears for the period from 01/02/2007 to 01/11/2013.

2. The short facts involved in the writ petition would disclose that the petitioner retired from the service of the 1st respondent on 31/01/2007. A notice was issued proposing to fix the liability for an amount of Rs.6,76,054/- on 05/10/2007. The petitioner preferred an appeal before the appellate authority and he was later on exonerated from the liability as per Ext.P18 decision of the Committee dated 28/09/2013. The order was communicated to the petitioner on 12/10/2013 as per Ext.P19. Thereafter, his pension papers were forwarded by the 1st respondent to the 2nd respondent and the 2nd respondent sanctioned pension with effect from 01/11/2013. The contention of the petitioner is that he, having retired as on 31/01/2007, is entitled to get pension from the said date and it is, on account of

the inaction on the part of the 1st respondent, that his pension papers were not forwarded along with necessary contribution, which resulted in the delay in sanction of the pension.

3. Statement has been filed by the 1st respondent inter alia stating that after the retirement of the petitioner, proceedings were taken against him to re-fix his salary and also quantification of the liability on the charge that he had drawn excess salary, while holding the post of Executive Officer of the Bank and ultimately proceedings were issued on 05/10/2007 fixing the liability. The matter was challenged by the petitioner by filing W.P.C.No.7764/2007 and by judgment dated 27/08/2013, this Court directed the bank to consider the representation of the petitioner in accordance with law. It is submitted that only after finalisation of the liability that the pension papers could be forwarded to the 2nd respondent. It is also stated that after exonerating the petitioner from the liability, direction was issued to disburse the gratuity amount with 8.5% interest and other amounts also were paid to the petitioner. Petitioner had remitted an amount of Rs.6,48,565/- to Account No.5017 of the Kerala State Co-operative Employees Pension Board only on 17/10/2013.

The Executive Committee met on 12/11/2013 and resolved to recommend the Pension Board to sanction pension to the petitioner.

4. Statement has been filed by the 2nd respondent inter alia stating that the pension application of the petitioner was received only on 30/02/2014 in the Pension Board Office. Total pension contribution amounting to Rs.6,48,565/- was remitted by the employer on 17/10/2013 and as per Clause 5(2) of the pension scheme, pension shall be payable only from the succeeding month of the month on which the remittance of the entire portion of the employer's contribution to the pension is made.

5. It is contended by the learned counsel for the petitioner that pension docket ought to have been forwarded by the 1st respondent to the 2nd respondent immediately after his retirement. He was all along calling upon the 1st respondent to give computation of the amount to be deposited towards the contribution fund, which was given only after he being exonerated from the liability.

6. Though there is justification on the part of the petitioner to contend that his pension papers ought to have been forwarded immediately after his retirement, the fact remains that a liability has been fastened on him in terms with the proceedings dated 05/10/2007 produced as Ext.P7. As long as the said liability exists, the 1st respondent took a stand that pending the representation before the competent authority, it is not possible to send the pension papers.

7. The facts being so, I am of the view that the 2nd respondent was justified in granting pension only from 01/11/2013. No direction is sought for against the 1st respondent as well. In terms of Clause 5(2) of the pension scheme, 2nd respondent was justified in granting pension only from 01/11/2013.

Under such circumstances, I do not think that the petitioner has made out any case for interference and for a direction, as sought for, in the writ petition and accordingly the writ petition is dismissed.

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

