

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No. 19871 of 2014 (H)

PETITIONER(S):

**R.V. GEORGE, S/O.VARKEY, AGED 59 YEARS,
RATHAPILLY HOUSE, KUPPAYACODE P.O.,
KODENCHERRY - VIA, KOZHIKODE DISTRICT, PIN: 673 580.**

**BY ADVS.SRI.BABU JOSEPH KURUVATHAZHA,
SRI.P.T.ABHILASH.**

RESPONDENT(S):

- 1. KERALA STATE ELECTRICITY BOARD,
VYDHYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM - 695 004,
REPRESENTED BY ITS SECRETARY.**
- 2. THE CHIEF ENGINEER (HUMAN RESOURCES MANAGEMENT),
K.S.E.B., PATTOM, THIRUVANANTHAPURAM - 695 004.**
- 3. THE DEPUTY CHIEF ENGINEER, K.S.E.B. CIVIL CIRCLE,
KAKKAYAM, KOZHIKODE- 673 615.**

BY ADV. SRI.K.S.ANIL, SC, KSEB.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1: TRUE COPY OF THE PROCEEDING NO.EBI/720/07-08/2159 DATED 07/10/2009 OF THE 3RD RESPONDENT.
- P2: TRUE COPY OF THE REPRESENTATION DATED 14/08/2009 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENTS.
- P3: TRUE COPY OF THE REPRESENTATION DATED 20/05/2014 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENTS.
- P4: TRUE COPY OF THE REPRESENTATION DATED 07/07/2014 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENTS.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.V.RAMAKRISHNA PILLAI, J

WPC No.19871 of 2014

Dated this the 6th day of March, 2015

JUDGMENT

The petitioner has approached this Court aggrieved by the non-disbursal of terminal benefits by the respondent Board to the petitioner.

2. The petitioner joined service under the respondents as an Overseer on 22.8.1989 and retired with effect from 30.6.2009 while working as Assistant Engineer under the third respondent.

3. Prior to the entry in service under the respondents on 22.8.1989, the petitioner rendered service as Overseer Grade II with effect from 9.8.1977 to 21.8.1989 in various Panchayats, and hence, he is entitled for pro-rata pension; it is alleged. The petitioner filed WPC No.2247/2013 claiming pro-rata pension and the said writ petition is pending.

4. Though the petitioner retired as early as on

30.6.2009, the terminal benefits such as DCRG, commuted value of pension, family benefit scheme etc. have not been disbursed to the petitioner, so far.

5. The petitioner was suspended from service from 26.10.2004 to 20.5.2006. But on enquiry, it was found that the allegations against the petitioner were erroneous and baseless. During the period of suspension, only subsistence allowance was paid to the petitioner. He is entitled for total pay and allowances for the said period and he is also entitled for revised regular pension. However, In spite of the repeated requests, none of the terminal benefits have been released to the petitioner. It is with this background, the petitioner has come up before this Court.

6. In the counter affidavit filed by the third respondent, it is stated that the petitioner joined service of the Board as Overseer on 22.8.1989 and though his retirement age was 30.6.2009, he was permitted to continue in service beyond normal

superannuation in connection with the unification of retirement age of Government and Public Sector employee was terminated on 7.10.2009 vide Ext.P1.

The main reason pointed out by the third respondent for not disbursing the terminal benefits to the petitioner is the pendency of vigilance enquiry against the petitioner. It was pointed out that there was no information regarding the exoneration of the petitioner from the vigilance case C.C.No.4/2009. The suspension in respect of the petitioner could be regularised only in accordance with the mode of disposal of the vigilance case. The vigilance case C.C.04/2009 in VC-03/2005 SIU-1 is under trial before the Court of Enquiry Commissioner and Special Judge, Kozhikode.

Therefore, according to them, as per Rule 3A Part III KSR, only provisional pension can be sanctioned, if the cases are pending before the judiciary and only after the disposal of the case, pension claims can be finally settled.

7. Arguments have been heard.

8. It is an admitted case that the petitioner demitted his office on 7.10.2009. The vigilance case against the petitioner is yet to be disposed of. The right of the petitioner cannot be held at bay on account of the pendency of the vigilance case. The petitioner has a case that he was illegally suspended from service. However, I am not going into those questions as it is outside the scope of enquiry in this writ petition. Therefore, the proper course open to the respondent Board was to disburse all retirement benefits to the petitioner after getting a bond executed with two solvent sureties for the amount due to the petitioner.

In the result, this writ petition is disposed of directing the respondent Board to disburse all the retirement benefits to the petitioner within a period of two months from the date of receipt of a copy of this judgment on his executing a bond together with two solvent sureties each for the amount due to the

petitioner undertaking that he would be liable to compensate the Board, if, ultimately, it is found that the respondent Board has sustained any loss on account of the laches on the part of the petitioner. It is hereby made clear that if the benefits are not paid within the time limit, the respondent shall pay interest at 12% per annum on the entire amount from the date of retirement.

sd/-A.V.RAMAKRISHNA PILLAI
JUDGE

css/

true copy

P.S.TO JUDGE