

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

WP(C).No. 24248 of 2009 (A)

PETITIONER:

**SURESH BOSE S,
RETIRED MUNSIFF, KATTAPPANA, RESHMAS
ATTINGAL, THIRUVANANTHAPURAM DIST.**

**BY ADVS.SRI.J.JAYAKUMAR
SRI.S.JIJI**

RESPONDENT(S):

- 1. STATE OF KERALA,
REP.BY THE ADDITIONAL CHIEF SECRETARY TO, GOVERNMENT
HOME DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE PRINCIPAL SECRETARY TO GOVERNEMENT
FINANCE DEPARTMENT, SECRETRIAT, THIRUVANANTHAPURAM.**
- 3. THE ACCOUNTANT GENERAL (A&E),KERALA,
THIRUVANANTHAPURAM.**
- 4. THE PRINCIPAL DISTRICT JUDGE,
DISTRICT COURT, THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SRI. V.K. REFEEK

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE ORDER DATED 17/8/2006 NO.C13/2006 ISSUED BY THE 4TH RESPONDENT.

EXT.P2: COPY OF THE VERIFICATION REPORT DATED 16.1.2009 ISSUED BY THE SR. ACCOUNTS OFFICER.

EXT.P3: COPY OF THE ORDER/LETTER DATED 6/8/2009 OF THE 3RD RESPONDENT.

ADDL. EXT.P4: COPY OF THE REVISED PENSION PAYMENT ORDER DATED 25/1/2010 ISSUED TO THE 4TH RESPONDENT.

RESPONDENTS EXHIBITS: NIL

/TRUE COPY/

P.A. TO JUDGE

SKV

P.V.ASHA, J.

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W.P.(C).No.24248 OF 2009

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Dated this the 3rd day of July, 2015

JUDGMENT

The petitioner retired from service on 31.8.2008, while working as Munsiff/Magistrate, consequent to his appointment under Rule 9 of the Kerala Judicial Service Rules, 1991. The appointment as temporary Munsiff-Magistrate was granted to him, as per order dated 21.7.2006, while he was working as Head Clerk in the ministerial wing of Civil Judicial Department. His pensionary benefits were fixed reckoning last pay drawn by him in the post of temporary Munsiff/Magistrate as well as the total average emoluments on the basis of pay drawn for the last 10 months. This writ petition was filed by him originally seeking directions to get certain mistakes in computing his pensionary benefits, rectified. While so, the Accountant General on verification found out certain anomalies in granting the pensionary benefits to the petitioner, on the

basis of pay drawn by him as Munsiff/Magistrate. According to the Accountant General the petitioner was in the substantive post of Head Clerk and since his appointment as Judicial Officer was on temporary basis, his pensionary benefits could not have been sanctioned on the basis of pay drawn by him in the post. Based on this revised pension payment order was issued reducing the monthly pension as well as the other pensionary benefits he had already received. The Sub Treasury Officer was directed that excess pension drawn from 1.9.2008, commuted value of pension of Rs.59,475/- DCRG Rs.1,31,388/- may be recovered from Dearness relief of pension. The petitioner is challenging the orders revising and reducing his pensionary benefits on the basis of Exts.P3 and P4.

2. When this writ petition came up for hearing the learned Government Pleader made available a copy of letter No.82502/C5/2009 dated 20.4.2011 of the Additional Chief Secretary to Government addressed to the Accountant

General in which it is stated as follows:–

“Government have examined the case and it is found that he is eligible for increment in the temporary post of Munsiff Magistrate as per Rule 33(a) of KSRs and as such there is no bar in reckoning the said period for pensionary benefits. Hence I am to inform you the average emoluments in respect of Shri.Suresh Bose for the purpose of computing the pensionary benefits can be calculated on the basis of emoluments drawn during the last 10 months that is by taking into account the pay drawn by him in the post of Munsiff Magistrate. The Accountant General (A&E) has already been given necessary instruction in this regard. The Registrar of High Court has also been directed to forward revised proposal to the Accountant General for computing the pensionary benefits in respect of Shri.Suresh Bose, Munsiff (Retd.) based on the emoluments drawn by him during the last 10 months that is by taking into account the pay drawn by him in the post of Munsiff Magistrates.”

3.In view of the above, the revision effected on the basis of Exts.P3 and P4 will stand quashed. Respondents are directed to recompute the pensionary benefits due to the petitioner on the basis of the last pay drawn by him in the post of Munsiff Magistrate and on the basis of pay drawn by him in the last 10 months. The amount already recovered from him shall be refunded and he shall be paid all the benefits including the arrears of pension and the benefits

admissible to him on the basis of orders of revision issued from time to time within a period of 3 months from the date of receipt of a copy of this judgment.

Accordingly this writ petition is allowed.

Sd/-
P.V.ASHA, JUDGE

SKV