IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY,THE 16TH DAY OF FEBRUARY 2015/27TH MAGHA, 1936

W.P.(C).No.33493 of 2006 (K)

PETITIONER(S):-

A.V.BALAN, ATHIYADATH HOUSE,
MANIYATT P.O., THRIKKARIPPUR VILLAGE, HOSDURG TALUK,
KASARAGOD DISTRICT.

BY ADV. SRI.G.PRABHAKARAN.

RESPONDENT(S):-

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1. THE DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD,
KANHANGOD, KASARAGOD.

2. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNEMENT,
LABOUR DEPARTMENT, THIRUVANANTHAPURAM.

3. THE DISTRICT COLLECTOR, KASARAGOD.

* ADDL. RESPONDENTS 4 TO 6 IMPLEADED:

ADDL.R4. V.VINOD, VINOD BHAVAN,
ERAMAM P.O., VIA.PAYYANNUR, KANNUR.

" R5. A.V.SASI, OLAYAMPADI POST, KANNUR DISTRICT.

" R6. V.V.NARAYANAN, CHANDERA PADINJAREKARA,
POST MANIYATT.

* ADDITIONAL RESPONDENTS 4 TO 6 ARE IMPLEADED AS PER ORDER DATED 09.03.2007 IN I.A.NO.3560 OF 2007.

R1 BY STANDING COUNSEL SRI.NAVEEN.T.
R2 & R3 BY SENIOR GOVERNMENT PLEADER SRI.BIJU MEENATTOOR.
BY ADV. SRI.PAULSON C.VARGHESE,SC,KMTWF BOARD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1	TRUE COPY OF THE FINAL DETERMINATION ORDER NO.ES 293/FDO/97-98 DATED 8.3.2004.
EXT.P2	TRUE COPY OF THE FINAL DETERMINATION ORDER NO.293/FDO/98-99 DATED 8.3.2004.
EXT.P3	TRUE COPY OF THE APPEAL DATD 26.4.2004 AGAINST ES 293/FDO/1997-98 DATED 8.3.2004.
EXT.P4	TRUE COPY OF THE APPEAL DATD 26.4.2004 AGAINST ES-293/FDO/1998-99 DATED 8.3.2004.
EXT.P5	TRUE COPY OF THE ORDER OF THE APPELLATE AUTHORITY WITH ITS NO.G.O.(Rt).NO.2600/06/LBR DATED 2.11.2006.
EXT.P6	TRUE COPY OF THE ORDER OF THE APPELLATE AUTHORITY WITH ITS NO.G.O.(Rt).NO.2535/06/LBR DATED 27.10.2006.

RESPONDENT'S EXHIBITS:-
--------------------------------------- NIL.

Vku/- [true copy]

K. Vinod Chandran, J.

W.P(C) No.33493 of 2006-K

Dated this the 16th day of February, 2015

JUDGMENT

The petitioner is aggrieved with the assessment orders passed under the Kerala Motor Transport Workers' Welfare Fund Act, 1985 [for short "Welfare Fund Act"] for the period 1997-98 and 1998-99 respectively by Exhibits P1 and P2. The petitioner filed separate appeals, being Exhibit P3 and P4, before the Government. The same were rejected by Exhibits P5 and P6, against which the petitioner is before this Court. The petitioner's contention is that, he was not given an effective opportunity, before the officer determining the amounts due under the Welfare Fund Act.

2. Exhibit P1 is the assessment for the year 1997-98. Admittedly the said assessment was made on the premise that the petitioner had two vehicles, one of which, being KL-13A-8429, was sold in October, 1998. The petitioner himself admitted that Ramesan, Sasi, Venugopalan, Satheesan and Narayanan were his workers till the said vehicle was sold. The contribution in the

said year is assessed only in their names. In such circumstance, Exhibit P1 would be upheld.

3. Exhibit P2 assessment is with respect to the year 1998-99. The petitioner again submitted that he had two vehicles, out of which one, KL-13A-8429, was sold in October, 1998. A document to evidence the sale is also seen to have been produced before the determination officer as indicated in Exhibit P2. The petitioner contended that till the sale of the said vehicle Ramesan, Sasi, Venugopalan, Satheesan and Narayanan were working under him. Ramesan, Venugopalan and Narayanan are said to have left the employment after the sale of the vehicle KL-13A-8429. Neither Venugopalan, Narayanan or Ramesan contested the same. With respect to Sasi and Satheesan, it is the admitted case of the petitioner that they were employed with him for the entire assessment year 1998-99. In the statement made before the officer, Vinod deposed that he was employed in the year from October, 1998 onwards. Accordingly, with respect to the assessment year 1998-99, Ramesan, Venugopalan and Narayanan were assessed only till October, 1998, i.e., till one of the vehicles of the petitioner were sold. Sasi and Satheesan were

assessed for the entire period, which stands admitted even by the petitioner's own deposition. As regards Vinod, he was assessed only for the period period he had worked, i.e, from October 1998 to March, 1999. In the light of the above, no interference is called for with respect to Exhibit P2 also.

4. Resultantly, the writ petition is found to be devoid of merit. Exhibits P1, P2, P5 and P6 are upheld and the writ petition would stand dismissed.

5. However, considering the fervent plea made by the petitioner, it is directed that if the petitioner approaches the authorities concerned, with a prayer for instalments, within a period of one month from the date of receipt of a copy of this judgment, the petitioner shall be permitted to settle the amounts due under the Welfare Fund Act, with interest, in six equal monthly instalments. If the petitioner fails to avail of the instalment facility or defaults in one instalment, the authorities would be free to proceed for recovery of the amounts covered under Exhibits P1 and P2.

Sd/-
K. Vinod Chandran,
Judge

vku/

(true copy)