

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

W.P.(C).No.37199 of 2004 (C)

[AGAINST THE AWARD IN I.D.NO.33 OF 2002 [9/97 OLD] DATED 10.12.2003
OF THE COURT OF THE INDUSTRIAL TRIBUNAL, KOZHIKODE].

PETITIONER(S):-

MOHANA KAMMATH, S/O.LAKSHMANA KAMMATH,
PRASHANTH SADAN, ALSRAI, HOSDURGE P.O..
KANHANGAD, KASARAGOD DISTRICT.

BY ADV. SRI.SURESH KUMAR KODOTH.

RESPONDENT(S):-

1. THE KOTACHERY SERVICE CO-OPERATIVE BANK LTD. NO.LL.156,
REPRESENTED BY ITS SECRETARY,
OFFICE OF THE KOTACHERRY SERVICE CO-OPERATIVE BANK LTD.156,
HOSDURG, KANHANGAD P.O., KASARAGOD DISTRICT.
2. H.K.JANARDHANAN, BILL COLLECTOR,
THE KOTACHERRY SERVICE CO-OPERATIVE BANK LTD. NO.LL.156,
HOSDURG, KANHANGAD P.O., KASARAGOD.
3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL),
KASARAGOD.
4. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, LABOUR DEPARTMENT,
GOVERNMENT SECRETARIAT, TRIVANDRUM.

R-1 BY ADVS. SRI.B.UNNIKRISHNAN (ADOOR)

R-1 BY ADV. SRI.ALAN PAPALI

R-1 BY ADV. SRI.P.K.VIJAYAMOHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXT.P1. TRUE COPY OF THE APPOINTMENT ORDER DATED 7.4.1970
ISSUED BY THE PRESIDENT OF THE 1ST RESPONDENT
APPOINTING THE PETITIONER AS BILL COLLECTOR
UNDER THE 1ST RESPONDENT.
- EXT.P2. TRUE COPY OF THE LETTER DATED 7.4.1970 REGARDING
JOINING DUTY OF THE PETITIONER.
- EXT.P3. TRUE COPY OF THE FEEDER CATEGORY RULES ADOPTED
BY THE 1ST RESPONDENT W.E.F. 7.8.1978.
- EXT.P4. TRUE COPY OF THE FEEDER CATEGORY RULES ADOPTED
BY THE 1ST RESPONDENT BANK W.E.F. 1.1.1993.
- EXT.P5. TRUE COPY OF THE REPORT DATED 16.10.1996 SENT BY
THE LABOUR OFFICER TO THE GOVERNMENT.
- EXT.P6 TRUE COPY OF THE AWARD DATED 10.12.2003 IN I.D.
NO.33 OF 2002 ON THE FILE OF THE INDUSTRIAL TRIBUNAL,
KOZHIKODE.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J.

W.P.(C) No.37199 of 2004-C

Dated this the 27th day of February, 2015

JUDGMENT

The petitioner has filed the above writ petition challenging Exhibit P6 award.

2. The petitioner was a Pigmy Deposit Collector in the management-Bank, who claimed regularisation and absorption to the feeder category of the management. The specific case of the Union before the Industrial Tribunal was that the workman was appointed as a Pigmy Deposit Collector on 07.04.1970 and there was a sanctioned post of Bill Collector as per the staff pattern of the Bank to which the petitioner could have been appointed and permanency granted.

3. The management, however, contended before the Tribunal that in the sanctioned post there was one person appointed and on his death, another was appointed by promotion. There was no vacancy at all in the post of Bill Collector. The Bank also took up an alternate contention that there are three Pigmy Deposit Collectors appointed, who were not regular employees of

the Bank. The evidence adduced before the Tribunal indicated that they were persons engaged for collecting pigmy deposit and were granted commission on the deposits so collected. There was no employer-employee relationship; nor was the work of such Pigmy Deposit Collectors supervised or controlled by the respondent-Bank. The deposits received at the Bank through the Pigmy Deposit Collectors enabled a commission alone to the Pigmy Deposit Collectors.

4. The Industrial Tribunal raised two issues to be considered; as to whether the petitioner herein was a “workman” and whether he is entitled to the claim made. In affirming the former and rejecting the latter, the Tribunal relied on a decision of the Hon'ble Supreme Court in ***Indian Banks Association v. Workmen of Syndicate Bank* [(2001) 3 SCC 36]**. On the basis of the said binding precedent, it was held that the petitioner could be treated as a workman; but, however, not granted regularisation. The specific observation of the Hon'ble Supreme Court regarding regularisation was also extracted. In such circumstance, this Court finds that there is no ground to interfere with the award passed.

5. The learned counsel for the petitioner submits that the petitioner had been granted appointment in a post subsequent to the award. If that be so, the judgment of this Court would not, in any manner, unsettle such appointment made.

With the above observation, the writ petition is disposed of.

Sd/-
K. Vinod Chandran,
Judge

vku/

[true copy]