

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 12TH DAY OF NOVEMBER 2015/21ST KARTHIKA, 1937

WP(C).No. 24608 of 2014 (A)

PETITIONER(S):

**P.M.MALATHY
RETIRED BRANCH MANAGER
ALAPPUZHA DISTRICT CO-OPERATIVE BANK LTD.
PUTHANANGADI BRANCH, PUTHANANGADI P.O., CHERTHALA
RESIDING AT NADUVATHUKALARICKAL, 'PRANAVAM'
MARUTHORVATTOM P.O., CHERTHALA, ALAPPUZHA DISTRICT.**

**BY ADVS.SRI.S.P.PARAVINDAKSHAN PILLAY
SMT.N.SANTHA
SRI.K.A.BALAN
SRI.V.VARGHESE
SRI.PETER JOSE CHRISTO
SRI.S.A.ANAND**

RESPONDENT(S):

- 1. ALAPPUZHA DISTRICT CO-OPERATIVE BANK LTD
HEAD OFFICE, ALAPPUZHA, PIN-688001
REPRESENTED BY ITS GENERAL MANAGER.**
- 2. ALAPPUZHA DISTRICT CO-OPERATIVE BANK EMPLOYEES' WELFARE FUND
ALAPPUZHA DISTRICT CO-OPERATIVE BANK LTD.
HEAD OFFICE, ALAPPUZHA, PIN-688001
REPRESENTED BY ITS SECRETARY.**
- 3. KERALA CO-OPERATIVE DEVELOPMENT AND WELFARE FUND BOARD
HEAD OFFICE, TC 25/357(4), GANDHARIAMMA KOVIL ROAD
STATUE, THIRUVANANTHAPURAM-695001
REPRESENTED BY ITS SECRETARY.**

**R2 BY ADV. SRI.T.M.RAMAN KARTHA, SC, KERALA CO.OP. DEVP. AND
WELFARE FUND
R1 BY ADV. SRI.GEORGE POONTHOTTAM,SC,ALAPPUZHA DIST.CO.OP BANK
R3 BY ADV. SRI.BRIJESH MOHAN, SC, KCDWFB**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

avk

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1 : TRUE COPY OF THE WELFARE FUND RULES OF DISTRICT CO-
OPERATIVE BANK, ALAPPUZHA.**

**EXHIBIT P2 : TRUE COPY OF THE REPRESENTATION DT.23-5-2014.
SUBMITTED BY THE PETITIONER BEFORE R1.**

**EXHIBIT P3 : TRUE COPY OF THE LETTER NO.ADCB/ADM/5799 2014-15 DT.4-7-
2014 OF R1.**

**EXHIBIT P4 : TRUE COPY OF THE REPLY DT.17-7-2014 SUBMITTED BY THE
PETITIONER BEFORE THE GENERAL MANAGER, DISTRICT CO-
OPERATIVE BANK, ALAPPUZHA.**

**EXHIBIT P5 : TRUE COPY OF THE JUDGMENT DT.31-1-2013 IN WA 1342/2010
OF THIS HON'BLE COURT.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

PA TO JUDGE

avk

A.M.SHAFIQUE, J.

W.P.(C).No. 24608 of 2014

Dated this the 12th day of November, 2015

JUDGMENT

The petitioner challenges Ext.P3, a communication dated 4.7.2013 by which she was informed that an amount of Rs.1,54,315/- has been withheld from the Family Welfare Fund amount due to her, on account of the fact that there had been delay in depositing the risk fund premium. The short facts involved in the writ petition disclose that the petitioner while working as Branch Manager in the first respondent bank at Puthanangadi Branch, Cherthala, retired from service on 30.11.2013. She was granted all her benefits except an amount of Rs.3,91,861/- which was due from Alappuzha District Co-Operative Bank Employee's Welfare Fund Scheme. Despite the demand made, no action was taken by the Bank in releasing the amount and the petitioner submitted a representation and while no action was taken in the matter, petitioner was served with Ext.P3 notice. It was interalia stated that while the petitioner was in charge of the Branch on 29.6.2013 an

amount of Rs.375/- was collected from one Sri.K.P.Prakasan towards risk fund premium on his taking a loan of Rs. 7,00,000/- from the bank. The said amount was not credited to the risk fund account. The loanee thereafter passed away and the legal heirs of the loanee applied for financial assistance from the risk fund. Since the legal heirs are entitled for the maximum amount of Rs.1,50,000/- along with the interest of Rs.4,315/-, the officers who committed default in crediting the collected premium in the risk fund are liable for the same and accordingly the said amount had been withheld. It is indeed contented by the petitioner that there is no provision either under the scheme or under any other guidelines or statute which enable the respondent bank to withhold the amount from the Welfare Fund Scheme. No attempt has been made by the respondent bank to take any action which enables them to withhold said amount which is legally due to the petitioner. Hence the writ petition is filed seeking to quash Ext.P3 as well as for a direction to bank to pay the amount.

2. During the pendency of the writ petition, an interim order was passed directing the bank to withhold Rs.1,54,315/- and to pay the balance amount. The learned counsel appearing for the respondent bank submitted that after withholding the aforesaid amount, the balance amount had already been paid. Counter affidavit has been filed supporting the stand taken in Ext.P3.

3. Heard the learned counsel appearing for the petitioner, learned counsel appearing for the first respondent and third respondent.

4. Though it is contented that they were entitled to withhold the said amount from the Family Welfare Fund Scheme, no contract or statutory provision is brought to the notice of this Court to recover any amount legally due to the petitioner. Though it might be correct that the persons who delayed depositing the premium to the risk fund account could be made liable, unless some action is taken by the bank under law mulcting the liability on the petitioner, it is not possible to withhold

such amount. It is apparent that there is no such statute; rule or contract in that regard. The remedy of the respondent bank was to file appropriate proceedings in accordance with law and even by approaching the Civil Court.

5. Under such circumstances, this writ petition is only to be allowed and accordingly there will be a direction to the first and second respondent to pay the petitioner the balance amount due to her under the Alappuzha District Co-Operative Bank Employee's Welfare Fund Scheme. The payment shall be made within a period of one month from the date of receipt of copy of this judgment. This however is subject to the right of the respondent 1 and 2 to take appropriate steps in accordance with the law.

**Sd/-
A.M.SHAFFIQUE
JUDGE**

//TRUE COPY//

PA TO JUDGE