IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WP(C).No. 28106 of 2008 (U)

PETITIONER

THANKACHAN.N.J.,
DISTRICT CO-ORDINATOR,
SCIENCE & TECHNOLOGY ENTREPRENEURSHIP DEVELOPMENT
PROJECT, VIDHYA NAGAR, NEAR DIC
KASARAGOD, 671 123.

BY ADVS.SRI.N.N.SUGUNAPALAN (SR.)
SRI.S.SUJIN

RESPONDENT(S):
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1. THE PROJECT DIRECTOR, SCIENCE AND
TECHNOLOGY ENTREPRENEURSHIP PROJECT, KOZHIKODE.

2. STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM.

R,R1 BY ADV. SRI.BABU JOSEPH KURUVATHAZHA
R,R1 BY ADV. SRI.C.P.SIVADASAN NAIR
R BY GOVERNMENT PLEADER SRI. R. RANJITH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 28106 of 2008 (U)

APPENDIX

PETITIONERS EXHIBITS

EXT.P1	**COPY OF THE MEMO DATED 28-2-2008 ISSUED BY THE IST RESPONDENT TO THE PETITIONER.**
EXT.P2	**COPY OF THE REPLY SENT BY THE PETITIONER ON 6-3-2008 TO THE 1ST RESPONDENT**
EXT.P3	**COPY OF THE LETTER DATED 26-8-2008 RECEIVED BY THE PETITIONER FROM THE 1ST RESPONDENT**
EXT.P4	**COPY OF THE REPRESENTATION DATED 1-9-2008 SENT BY THE PETITIONER TO THE 1ST RESPONDENT**
EXT.P5	**COPY OF THE SALARY VOUCHER PERTAINING TO THE PETITIONER FOR THE MONTH OF AUGUST, 2008**

RESPONDENTS EXHIBITS **NIL**

TRUE COPY

P.A TO JUDGE

SMM

K. VINOD CHANDRAN, J.

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W.P.C. No. 28106 of 2008

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Dated this the 17th day of March, 2015.

J U D G M E N T

The petitioner has filed the above writ petition challenging the recovery from the salary, ordered by Ext.P5. Admittedly, the petitioner was the disbursing officer of the employees working under him, as District Co-ordinator of Kasaragod. The petitioner did not pay the Provident Fund contributions to the head office of the first respondent. Despite deducting the same from the salary, the petitioner contends that it was due to administrative expenses that the same was not remitted and hence there could be no recovery effected from him. The petitioner also contends that there was delay in remittance of salary, which resulted in the deductions being not remitted to the head office in time.

2. It is to be noticed that the specific charge against

the petitioner was that Provident Fund amounts were deducted from the salary of the employees and not remitted to the Employees Provident Fund account at the head office. The delay in disbursement of salary from the head office does not at all affect the remittance. Since deductions are made only on such disbursement effected, after the head office has transmitted the money to the petitioner holding the post of Project Co-ordinator.

3. Having deducted such amounts the petitioner ought not to have expended it for other "administrative expenses". The specific averment is that: <u>"In fact to get rid of the difficulties to a certain extent, the petitioner has disbursed the salary deducting P.F dues. That P.F dues so received, have to be spent on other essential expenditure."</u>

The action of petitioner cannot be countenanced especially since the deductions were made and not transmitted to the Provident Fund account.. The recovery would be effected with any interest due from the date of the impugned order till refund effected.

In such circumstances, the writ petition is dismissed. No costs.

Sd/-

K. VINOD CHANDRAN.
JUDGE

smm