

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937**

**WP(C).No. 24973 of 2015 (V)**  
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**PETITIONER(S):**  
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**P.SASIKUMAR AGED 58 YEARS  
U.D.CLERK, SREE AYYANPPANKAVU DEVASWOM  
CHERUPULASSERY PALAKKAD DT., PIN:679 665  
RESIDING AT PUTHENKOVILAKAM NELLAYA  
CHERUPULASSERY P.O., PALAKKAD DT 679 503.**

**BY ADV. SRI.K.P.SAILESH (KECHERY)**

**RESPONDENT(S):**  
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- 1. THE COMMISSIONER  
OFFICE OF THE COMMISSIONER OF MALABARDEVASWOM BOARD  
HOUSE FED COMPLEX, ERANJIPALAM, KOZHIKODE  
PIN: 673 006.**
- 2. THE ASSISTANT COMMISSIONER  
OFFICE OF THE ASSISTANT COMMISSIONERMALABAR DEVASWOM BOARD  
PALAKKAD 679 503.**
- 3. THE MANAGING TRUSTEE  
SREE AYYANPPANKAVU DEVASWOM, CHERUPULASSERY  
PALAKKAD DT, PIN: 679 503.**
- 4. THE SECRETARY  
REVENUE DEVASWAOM DEPARTMENTGOVERNMENT OF KERALA  
SECRETARIAT, THIRUVANANTHAPURAM 679 001**
- 5. THE PRINCIPAL ACCOUNTANT GENERAL  
OFFICE OF THE ACCOUNTANT GENERALGOVERNMENT OF KERALA  
THIRUVANANTHAPURAM.**

**R BY GOVERNMENT PLEADER, SMT. LOWSY A.  
R BY SRI.PARTHASARATHY.B, SC, MALABAR DEVASWOM BOARD**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
18-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS  
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- EXT.P1: TRUE COPY OF THE PROCEEDINGS OF THE 3RD RESPONDENT 1  
NO.92/87/97 DATED 27/8/1988
- EXT.P2: TRUE COPY OF THE APPLICATION BEARING NO.92/87/97 DATED  
9/9/1988 SUBMITTED BEFORE THE OFFICE OF THE 1ST RESPONDENT  
BY THE 3RD RESPONDENT TO APPROVE THE APPOINTMENT OF THE  
1ST RESPONDENT
- EXT.P3: TRUE COPY OF THE PROCEEDINGS OF THE 3RD RESPONDENT DATED  
23/7/2014 REGARDING THE PROMOTION OF THE PETITIONER AS  
SENIOR CLERK
- EXT.P4: TRUE COPY OF THE GOVERNMENT ORDER NO.G.O.(MS) NO.116/2009  
DATED 28/2/2009 ISSUED FROM THE OFFICE OF THE 4TH  
RESPONDENT OFFICE AS TO THE FIXATION OF SALARY OF THE  
EMPLOYEES OF MALABAR DEVASWOM BOARD
- EXT.P5: TRUE COPY OF THE CIRCULAR BEARING NO.H-41665/09 DATED  
18/3/2009 STATING THE CRITERIA FOR SALARY FIXATION ISSUED  
FROM THE OFFICE OF THE 1ST RESPONDENT
- EXT.P6: TRUE COPY OF THE IMPUGNED ORDER BEARING NUMBER  
A6/1032/2014/M.D.B (KDIS) DATED 31/3/2014 ISSUED FROM THE OFFICE  
OF THE 1ST RESPONDENT
- EXT.P7: TRUE COPIES OF THE TABLE OF THE SALARY INCREMENTS OF THE  
EMPLOYEES OF THE 3RD RESPONDENTS BEARING NO.AD/01/A4/014  
DATED 25/6/2014 SUBMITTED BEDSORE THE 1ST RESPONDENT
- EXT.P8: TRUE COPIES OF THE REPRESENTATION DATED 25/6/2014  
SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT
- EXT.P9: TRUE COPY OF THE REPRESENTATION BEARING NO.AD/01/78/2014  
DATED 2/7/2014 SUBMITTED BEFORE THE 1ST RESPONDENT
- EXT.P10: TRUE COPY OF THE IMPUGNED ORDER NO.A6/3440/2014/MDB DATED  
22/7/2014 ISSUED BY THE OFFICE OF THE 1ST RESPONDENT
- EXT.P11: TRUE COPY OF HTE REPRESENTATION DATED 20/6/2014 SUBMITTED  
BY THE PETITIONER TO THE 1ST RESPONDENT
- EXT.P12: TRUE COPY OF THE REQUEST LETTER BEARING NUMBER AD/01/  
DATED BEARING NUMBER AD/01/ DATED 27/8/2014 SUBMITTED  
BEFORE THE 1ST RESPONDENT BY THE 3RD RESPONDENT
- EXT.P13: TRUE COPY OF THE LAWYER NOTICE DATED 23/3/2015 ISSUED TO  
THE 1ST RESPONDENT
- EXT.P14: TRUE COPY OF THE REPLY NOTICE BEARING NO:J5-6368/14/MDB (2)  
DATED 17/4/2015

**EXT.P15:        TRUE COPY OF THE SALARY CERTIFICATE OF THE PETITIONER  
DATED 3/6/2015**

**RESPONDENT(S)' EXHIBITS**  
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**NIL**

// True copy //

PA to Judge

das

**A.K.JAYASANKARAN NAMBIAR, J.**  
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**W.P.(C). No. 24973 of 2015**  
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**Dated this the 18<sup>th</sup> day of August, 2015**

**JUDGMENT**

The petitioner, who is now working as Upper Division Clerk under the Malabar Devaswom Board, is aggrieved by Ext.P6 order that has been passed, whereby his scale of pay has been wrongly fixed through an erroneous application of the guidelines prescribed in Ext.P5. It is his case in the writ petition that, consequent to Ext.P6, and as a result thereof, he has also been served with Ext.P10 order, by which amounts allegedly paid to him in excess have been directed to be recovered from him. Aggrieved by Exts.P6 and P10, he has approached the 1<sup>st</sup> respondent with Ext.P11 representation and the limited prayer in the writ petition is for a direction to the 1<sup>st</sup> respondent to consider and pass orders on Ext.P11 representation, after hearing the petitioner and, to keep Exts.P6 and P10 in abeyance till such time as the 1<sup>st</sup> respondent passes orders on Ext.P11 representation.

2. I have heard the learned counsel appearing for the petitioner as also the learned Standing Counsel appearing for the respondent Board.

3. The learned Standing Counsel, on instructions, would submit that by Ext.P10 the respondents are only trying to recover

amounts, that were paid to the petitioner in excess pursuant to a calculation mistake that was committed by them, while sanctioning the various amounts in accordance with Ext.P5 guidelines. The contention of the petitioner that Ext.P6 has been passed by an erroneous application of guidelines in Ext.P5 is also disputed by the learned Standing Counsel.

4. On a consideration of the submissions of counsel on either side, I am of the view that the interests of justice would be met by directing the 1<sup>st</sup> respondent to consider and pass orders on Ext.P11 representation, that has been preferred by the petitioner against Exts.P6 and P10 that were served on the petitioner. Accordingly, I direct the 1<sup>st</sup> respondent to consider and pass orders on Ext.P11 representation, within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. I make it clear that, till such time as orders are passed by the 1<sup>st</sup> respondent as directed, and communicated to the petitioner, the recovery of amounts contemplated under Ext.P10 shall be kept in abeyance. The petitioner shall produce a copy of the writ petition together with a copy of this judgment before the 1<sup>st</sup> respondent for further action.

The writ petition is disposed as above.

Sd/-  
**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**