

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 27666 of 2013 (G)

PETITIONER(S):

**K.P.KRISHNAKUMAR
CHIEF ENGINEER (RETIRED), KERALA WATER AUTHORITY
RESIDING AT HILL GARDENS, MANALAYAM JUNCTION
KODUNGANNOOR P.O., THIRUVANANTHAPURAM-695 013.**

**BY ADVS.DR.K.P.SATHEESAN (SR.)
SRI.M.R.JAYAPRASAD
SRI.P.MOHANDAS (ERNAKULAM)
SRI.ANOOP.V.NAIR
SRI.S.VIBHEESHANAN**

RESPONDENT(S):

- 1. THE MANAGING DIRECTOR,
KERALA WATER AUTHORITY, JALA BHAVAN
THIRUVANANTHAPURAM-695 033.**
- 2. THE FINANCE MANAGER AND CHIEF ACCOUNTS OFFICER
KERALA WATER AUTHORITY, JALA BHAVAN
THIRUVANANTHAPURAM-695 033.**

R BY SRI.JOSEPH JOHN, SC, KERALA WATER AUTHORITY

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

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APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1.TRUE COPY OF THE LETTER WRITTEN BY THE DIRECTOR, VIGILANCE AND ANTI CORRUPTION BUREAU DATED 25/6/2012.

EXHIBIT P2.TRUE COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT DATED 30/6/2012.

EXHIBIT P3.TRUE COPY OF THE LETTER WRITTEN BY THE PRINCIPAL SECRETARY TO GOVERNMENT, VIGILANCE DEPARTMENT DATED 24/8/2012.

EXHIBIT P4.TRUE COPY OF THE SANCTION ORDER ISSUED BY THE 2ND RESPONDENT TO THE 1ST RESPONDENT DATED 7/11/2012.

EXHIBIT P5.TRUE COPY OF THE LETTER GIVEN BY THE 1ST RESPONDENT TO THE PETITIONER DATED 29/11/2012.

EXHIBIT P6.TRUE COPY OF THE REPORT OF TRANSFER OF CHARGE DATED 30/11/2012.

EXHIBIT P7.TRUE COPY OF THE SALARY SLIP ISSUED BY THE ACCOUNTS OFFICER OF THE KERALA WATER AUTHORITY DATED 30/1/2013.

EXHIBIT P8.TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 21/3/2013.

EXHIBIT P9.TRUE COPY OF THE SHOW CAUSE NOTICE TO THE PETITIONER BY THE 1ST RESPONDENT DATED 7/11/2012.

EXHIBIT P10.TRUE COPY OF THE REPLY GIVEN BY THE PETITIONER TO THE 1ST RESPONDENT PURSUANT TO HIS LETTER DATED 29/6/2012.

EXHIBIT P11.TRUE COPY OF THE EXPLANATION SUBMITTED BY THE PETITIONER DATED 12/11/2012.

EXHIBIT P12.TRUE COPY OF THE JUDGMENT DATED 25/7/2013 IN WPC NO.9939/2013.

EXHIBIT P13.TRUE COPY OF THE ORDER NO.KWA/JB/E9/13073/2012 DATED 2/9/2013 ISSUED BY THE 1ST RESPONDENT

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

P.A. TO JUDGE

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A.V.RAMAKRISHANA PILLAI, J.

W.P.(C) No.27666 of 2013

Dated this the 3rd day of March, 2015

JUDGMENT

The petitioner is aggrieved by the non-disbursal of the pensionary benefits to the petitioner, who demitted his office as Chief Engineer of the respondent Authority. The petitioner points out that he retired from service on superannuation on 30.11.2012 and even after a gap of more than 10 months (that is at the time of filing the writ petition), the full pension and the terminal benefits were not paid to the petitioner. Thereupon the petitioner approached this court with WP(C) No.9939/2013, which was disposed of directing the respondent authority to pass appropriate orders. As there was no positive move from the respondent, he filed contempt case and at that point of time, provisional pension was sanctioned to the petitioner withholding the DCRG. The petitioner points out that there is no departmental action or disciplinary proceeding pending against him and hence withholding of

full pension and DCRG is a colourable exercise of power. It is with this background, the petitioner has come up before this Court. Though notice has been served on the respondent Authority, no counter has been filed.

2. Arguments have been heard.

3. The fact that the petitioner retired from the service of the respondent Authority on 30.11.2012 is not disputed. After filing a writ petition and consequential contempt proceedings, the respondent passed an order on 2.09.2013 releasing the provisional pension and withholding DCRG of the petitioner. According to the petitioner while he was continuing in service some unpleasant events arose with the first respondent, which resulted in the personal grudge towards the petitioner. That is why the first respondent purposely delayed the payment of pension and terminal benefits to the petitioner, it was submitted Exhibit P13 is the order dated 2.09.2013, by which the provisional pension was granted to the petitioner. It is noted that no reason was stated in Exhibit P13 as to why the full pension and

DCRG were not paid to the petitioner. What is stated in Exhibit P13 is that the authority has resolved to address the Government to take disciplinary action against the petitioner and to withhold monetary loss caused to the authority. The petitioner points out that the entire matter was investigated by the Vigilance and Anti Corruption Bureau and they found that there is no loss to the Government and there is nothing to proceed against the petitioner. It is also pointed out that the said report of the vigilance was accepted by the Government and now the first respondent has again recommended to the Government for taking disciplinary action against the petitioner.

4. According to the petitioner the present resolution is taken as a ground for denying full pension and terminal benefits to the petitioner. As could be discerned from Exhibit P13 it was resolved to approach the Government only for conducting an enquiry and ascertain whether there is any loss. The petitioner points out that the said procedure itself is against the provisions

of K.S.R and K.S & S.S.R and the said aspect was not considered by the first respondent while issuing Exhibit P13. I see valid force in the argument advanced by the petitioner. The petitioner admits that while he was working as Superintending Engineer in the respondent Authority, a vigilance enquiry was ordered against some irregularities, though the petitioner had no role in the said allegation. However, the vigilance completed the enquiry and forwarded a report to the Government proposing no action against the petitioner on 23.6.2012. It is evident from Exhibit P1, P2 and P3, that the vigilance report was accepted by the Government.

5. On a consideration of the entire materials now placed on records this Court is of the definite view that there is no reason for the respondent Authority to withhold the full pension and DCRG to the petitioner.

Therefore the writ petition is allowed. Exhibit P13 is quashed to the extent of sanctioning provisional pension only and withholding of DCRG due to the petitioner, on the basis of proposed enquiry. The first respondent is

directed to pay full pension to the petitioner and DCRG withheld and other consequential terminal benefits, within a period of two months from the date of receipt of the copy of this judgment.

**Sd/-
A.V.RAMAKRISHNA PILLAI
JUDGE**

lmp

//TRUE COPY//

PA TO JUDGE

