

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WP(C).No. 28644 of 2008 (I)

PETITIONER:

JOSEPHINA, W/O. JOSE,
KANJIRAPARAMBIL HOUSE, WEST VELLANIKKARA,
MADAKKATHARA, THRISSUR.

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENTS:

1. VELLANIKKARA SERVICE CO-OPERATIVE BANK LTD.,
NO.545, VALLANIKKARA, MADAKKATHARA P.O.,
THRISSUR,
REP. BY ITS SECRETARY

2. THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES, THRISSUR.

R1 BY ADV. SRI.M.R.VENUGOPAL
R1 BY ADV. SMT.DHANYA P.ASHOKAN
BY SR.GOVERNMENT PLEADER SRI.ABHIJEET LESSLIE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO.28644/2008

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF CIRCULAR DTD 31.10.2000
EXT.P2: TRUE COPY OF GO DTD 23.8.2005
EXT.P3: TRUE COPY OF REPRESENTATION DTD 20.6.06 SUBMITTED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT
EXT.P4: TRUE COPY OF ORDER DTD 21.5.2007 PASSED BY THE 2ND RESPONDENT

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

VPS

PS TO JUDGE

P.N.RAVINDRAN, J.

W.P.(C) No.28644 of 2008

Dated this the 7th day of January, 2015

J U D G M E N T

P.N.Ravindran, J.

The petitioner, a part-time sweeper of the first respondent bank has filed this writ petition challenging Ext.P4 proceedings dated 21.5.2007 issued by the Registrar of Co-operative Societies (General) Thiruvananthapuram and seeking a declaration that she is entitled to have her wages revised in terms of Ext.P1 circular and Ext.P2 Government order. She has also prayed for a writ in the nature of mandamus commanding the second respondent to pass appropriate orders revising her wages in tune with Ext.P1 circular and Ext.P2 Government order. The brief facts of the case are as follows:

2. The petitioner is a part-time sweeper in the first respondent bank. She has averred that she is a part-time sweeper of the first respondent bank since 1979, that the carpet area of the head office building of the first respondent bank is more than 3000 square feet, that in addition to the head office she also sweeps the branch office of the bank and works from 9.15 AM to 1.30 PM, that by Ext.P1 circular dated 31.10.2000, the Registrar of Co-operative Societies revised the wages payable to part-time sweepers, but the revised wages as per Ext.P1 circular was not granted to the petitioner, that by Ext.P2 Government order dated 23.8.2005, the Government revised the pay and allowances of the employees of co-operative societies including part-time sweepers, that when her wages was

not revised even thereafter, she submitted Ext.P3 representation dated 20.6.2006 before the Joint Registrar of Co-operative Societies (General), Thiruvananthapuram, that when no action was taken thereon, she filed W.P. (C) No.24755 of 2006 in this Court, that the said writ petition was disposed of by judgment delivered on 20.9.2006 by directing the Joint Registrar of Co-operative Societies to pass appropriate orders on Ext.P3 representation and that the Joint Registrar of Co-operative Societies thereafter heard the petitioner and rejected her request in Ext.P3 representation by Ext.P4 order dated 21.5.2007. The petitioner challenges Ext.P4 order on the ground that on the terms of Ext.P1 circular issued by the Registrar of Co-operative Societies and Ext.P2 Government order, she is entitled to have her wages revised.

3. The Registrar of Co-operative Societies has by Ext.P1 circular directed that the wages payable to part-time sweepers be revised. The only exception carved out is in cases of societies which are not financially viable. The petitioner has averred that the first respondent is a profit making society and therefore, it is not entitled to the exemption contemplated in Ext.P1 circular. Relying on Ext.P2 Government order it is contended that on the terms of Ext.P2, even without the wages being revised in terms of Ext.P1 circular, the petitioner is entitled to the benefits flowing from Ext.P2. The petitioner has also contended that though Ext.P2 stipulates that on application filed by societies concerned the provisions therein can be varied, the first respondent society has not so far moved such an application.

Though the respondents have been served and they have entered appearance through counsel, they have not so far filed a counter affidavit traversing the averments in the writ petition.

4. The fact that the petitioner is a part-time sweeper in the service of the first respondent bank is not in dispute. The statement regarding the sweeping area is also not in dispute. It is also not disputed that the first respondent bank is a profit making society. By Ext.P1 circular issued on 31.10.2000, the Registrar of Co-operative Societies revised the wages payable to part-time sweepers working in establishments which has a sweeping area of more than 400 square metre. The wages payable is Rs.1,500 + DA. Ext.P1 further stipulates that banks which are not financially viable need not give effect to the directions therein. As stated earlier, the first respondent bank has not denied the petitioner's averment that it is a profit making society. Therefore, the first respondent bank cannot be heard to contend that Ext.P1 has no application to it. Ext.P4 also discloses that the sweeping area is more than 3000 square feet and that as on the date of issuance of Ext.P4, the petitioner was being paid the sum of Rs.2,200/- per mensem. It is evident from the materials on record that the petitioner is entitled to the benefits flowing from Ext.P1 circular and Ext.P2 Government order. It was merely on account of the failure of the bank to implement Ext.P1 circular that the Joint Registrar of Co-operative Societies declined to grant the relief prayed for by the petitioner. Section 66A of the Kerala Co-operative Societies Act, 1969 empowers the Registrar of Co-operative

Societies to issue general directions and guidelines to any or all of the co-operative societies in furtherance of the purposes of the Act or for implementing government policies for the benefit of the members of the society and the general public. In the absence of a case for the first respondent bank that its financial position does not permit it to implement Ext.P1 and Ext.P2, I am of the opinion that the bank had a duty to extend the benefits flowing from Ext.P1 circular and Ext.P2 Government order to the petitioner. The petitioner is in my opinion entitled to have her wages revised in terms of Ext.P1 circular with effect from 1.11.2000 and on the basis of Ext.P2 Government order with effect from 1.4.2004.

For the reasons stated above, I allow the writ petition, set aside Ext.P4 and direct the first respondent bank to revise the wages payable to the petitioner during the period from 1.11.2000 to 1.4.2004 in accordance with the stipulations in Ext.P1 circular and to suitably revise her wages with effect from 1.4.2004 on the terms of Ext.P2 Government order. Orders in that regard shall be issued and arrears of salary and allowances disbursed to the petitioner expeditiously and in any event within one month from the date on which the petitioner produces a certified copy of this judgment before the Secretary of the first respondent bank.

**P.N.RAVINDRAN,
(JUDGE)**

vps