

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WP(C).No. 31203 of 2009 (U)

PETITIONERS:

1. T.C.ABRAHAM, THOMPILADI MURIYIL,
NEDUMKANDAM P.O., IDUKKI.
2. KESAVAN K.E., KALATHIKUDIYIL,
NEDUMKANDAM P.O., IDUKKI.
3. THOMAS V.A., VELLIKUNNEL KARIKKEDATH,
NEDUMKANDAM P.O., IDUKKI.
4. M.K.MATHEW, MAVUNKAL,
ERATTAYAR, KATTAPPANA.

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENTS:

1. THE MALANAD CO-OP. AGRICULTURAL RURAL
DEVELOPMENT BANK LIMITED NO.K.352, HEAD OFFICE
NEDUMKANDAM, IDUKKI-685553, REP. BY
ITS SECRETARY.
2. THE REGISTRAR OF CO-OP. SOCIETIES,
THIRUVANANTHAPURAM.
3. THE LIFE INSURANCE CORPORATION OF
INDIA, PENSION AND GROUP SCHEMES DEPARTMENT
'JEEVAN JYOTHI', STAR JUNCTION, KOTTAYAM
REP. BY ITS DIVISIONAL MANAGER.

R3 BY ADVS. SRI.N.RAJAGOPALAN NAIR
SRI.D.M.NOWFAL

R1 BY ADV. SRI.JOICE GEORGE

R2 BY GOVERNMENT PLEADER SRI. P.M. SANEER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 31203 of 2009

APPENDIX

PETITIONERS' EXHIBITS:

P1 : TRUE COPY OF REPRESENTATION MADE BY THE 1ST PETITIONER
BEFORE THE 1ST RESPONDENT.

P2 : TRUE COPY OF REPLY DATED 29/8/09 FROM THE 1ST RESPONDENT TO
THE 1ST PETITIONER.

RESPONDENTS' EXHIBITS:

R1(a) : TRUE COPY OF THE CERTIFICATE ISSUED BY THE 3RD RESPONDENT
DATED 07.01.2010.

//true copy//

P.A TO JUDGE

smv

SHAJI P. CHALY, J.

W.P.(C) No.31203 of 2009

Dated this the 9th day of November, 2015

JUDGMENT

This writ petition is filed by the petitioners seeking to declare that petitioners 1 and 2 are entitled to the maximum amount of gratuity based on the total service rendered by them, to declare that the respondents cannot limit the gratuity payable to the petitioners to Rs.3,50,000/- and that they are entitled to the maximum amount payable under the Group Gratuity Scheme, viz, 20 month's salary and other related reliefs.

2. Brief facts for the disposal of the writ petition are as follows.

3. First petitioner worked as Superintendent. He entered service on 1.7.1972 and retired on 31.05.2009 after rendering 36 years of service. Likewise, second respondent was Assistant Secretary, entered service on 3.1.1977 and retired on 31.08.2008 after rendering 31 years of service. Third petitioner was Secretary from 1.7.1972, retired on 30.09.2006 after rendering 34 years of service and 4th petitioner was the

Secretary who entered service on 9.12.1976 and retired on 31.7.2009 after rendering a total service of 33 years. All the petitioners are paid gratuity amounting to Rs.3,50,000/- on their retirement.

4. Contention put forth by the petitioners are that, they are entitled to the full gratuity taking into account the total service rendered by them and in accordance with the provisions contained under the Gratuity Act.

5. The 1st respondent has filed a counter affidavit contending that petitioners are not entitled to get the full gratuity as per the Mater Policy dated 22.01.1999, which has been renewed for a further period of one year upto 27.10.2010. The maximum gratuity payable is Rs.3,50,000/- and therefore, petitioners are not entitled to get the gratuity as per the amended provisions of the Gratuity Act over and above the ceiling limit fixed under the Act. This question was considered by this Court in the judgment in Travancore Cements Employees Co-operative Bank Ltd. Kottayam v. Ramachandran Nair E.V. and others reported in 2014 KHC 174 and held against the petitioners. This Court had held that as provided under sub-section 5 of Section 4 of the Payment of Gratuity Act, the

employee is to receive better terms of gratuity under any award or agreement or contract with the employer which thus means that if any award or agreement or contract with the employer, higher amount of gratuity is payable, Section 4 of the Act will not stand on the way of the employee's right in getting such higher benefit under those favourable terms. It was further held that, the documents referred to therein make it abundantly clear that the Group Gratuity Cash Accumulation Scheme of the LIC limited, the maximum gratuity payable to an employee of the appellant bank is Rs.3,50,000/- which was the maximum limit prescribed under sub-section 3 of Section 4 of the Payment of Gratuity Act as it stood during the relevant time.

The maximum gratuity payable to the petitioners was received by them, and therefore, in accordance with the terms of the contract, petitioners are not entitled to any further amount, which legal position is settled by the aforesaid judgment of the Division Bench of this Court. Therefore, nothing survives further in the writ petition. Accordingly same is dismissed.

Sd/-
SHAJI P. CHALY
JUDGE

smv
09.11.2015