

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 3RD DAY OF SEPTEMBER 2015/12TH BHADRA, 1937

WP(C).No. 28659 of 2014 (F)

PETITIONER(S):

1. NIRMALA MATHEW AGED 59 YEARS
OLIKKARA HOUSE, X/730, VSNL ROAD
KAKKANAD, ERNAKULAM DISTRICT, PIN: 682 030.
2. BALAKRISHNAN.M.,
MARAMPATTA HOUSE, AROOR P.O., PIN: 673 507
VADAKARA, KOZHIKODE DISTRICT.

BY ADV. SRI.D.SREEKUMAR

RESPONDENT(S):

1. KERALA STATE WAREHOUSING CORPORATION
HEAD OFFICE, P.B.NO.1727
WARE HOUSING CORPORATION ROAD, ERNAKULAM
KOCHI - 682 016
REPRESENTED BY THE MANAGING DIRECTOR.
2. THE MANAGING DIRECTOR,
KERALA STATE WARE HOUSEING CORPORATION, HEAD OFFICE
P.B.NO.1727, WAREHOUSING CORPORATION ROAD
ERNAKULAM - 682 016.
3. THE STATE OF KERALA REPRESENTED BY THE PRINCIPAL,
SECRETARY TO GOVERNMENT, AGRICULTURE DEPARTMENT
SECRETARTIAT, THIRUVANANTHAPURAM - 695 001.

R1-R2 BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR
R1-R2 BY ADV. SRI.P.GOPINATH
R1-R2 BY ADV. SRI.P.BENNY THOMAS
R1-R2 BY ADV. SRI.K.JOHN MATHAI
R1-R2 BY ADV. SRI.JOSON MANAVALAN
R1-R2 BY ADV. SRI.KURRYAN THOMAS
R3 BY GOVERNMENT PLEADER SMT A LOWSY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF REPRESENTATION SUBMITTED BY THE 1ST PETITIONER BEFORE THE MANAGING DIRECTOR, KSWC DATED 20/5/2014.

EXT.P2: TRUE COPY OF THE DETAILS OF EMPLOYEES RETIRED FROM MARCH 2009 ONWARDS PUBLISHED BY THE KERALA STATE WAREHOUSING CORPORATION.

EXT.P3: TRUE COPY OF THE JUDGMENT DATED 23/5/2013 IN WPC NO.16669/2012 OF THIS HONOURABLE COURT.

RESPONDENT(S)' ANNEXURES/EXHIBITS:-

ANNEXURE R1(a) : TRUE COPY of the JUDGMENT DATED 19.08.2014 IN WPC NO. 14968/2014 PASSED BY THIS HON'BLE COURT

EXT.R1(A): TRUE COPY OF THE STATEMENT SHOWING THE GRATUITY AMOUNT PAYMENT DETAILS

EXT.R1(B): TRUE COPY OF THE STATEMENT SHOWING THE TERMINAL SLA PAYMENT DETAILS

TRUE COPY

P.A TO JUDGE

jma

K. VINOD CHANDRAN, J

W.P(C) No. 28659 of 2014

Dated this the 03rd day of September, 2015

J U D G M E N T

The petitioners are aggrieved with the fact that though they were retired from the respondent Corporation at the age of 58 their retirement benefits have been computed and paid only determining the age of retirement as 55. Admittedly, the respondent Corporation on its own volition extended the age of retirement to 58. The issue also stands covered by Ext.P3 judgment of this Court in the case of other similarly placed employees. In such circumstance, necessarily the petitioners also would be entitled to a declaration that they are entitled to get their retiral benefits, based on their respective last drawn salary at the time of their retirement at the age of 58 years. There shall be such a declaration.

2. The learned counsel for the petitioner however contends that there should also be a direction to disburse the

amount in a time bound manner. However, with respect to such disbursal, the learned counsel for the respondent Corporation would take me through Annexure R1(a). The common judgment in the writ petitions filed by similarly placed employees took note of the fact that the Corporation has been under financial difficulties. The stand of the Corporation that Rs.5 Crores have now been allotted by the Government to satisfy the statutory liabilities was also taken into account. This Court by Annexure R1(a) judgment directed that the balance retirement benefits due to the petitioners therein would be paid strictly based on the seniority with reference to the actual date of liability, on attaining the age of 58. It is also directed that such payments would be disbursed within six months from the date of receipt of a copy of this judgment. The learned counsel for the petitioner would contend that such directions were not complied with and there is a contempt case pending with reference to the non-compliance of such directions.

3. As to the amounts paid by the Government, respondent Corporation has specifically in its counter affidavit dated 26.03.2015 referred to the financial position of the Corporation which prompted the Corporation to seek for financial aid from the Government. Though the Corporation had sought for Rs.10 crores, only Rs.5 Crores was granted. The manner in which such amounts were applied to clear the statutory liability has been specifically listed out in the counter affidavit. It is also stated that an amount of Rs.5,79,520/- was also generated from own funds over and above the 5 Crores; for satisfaction of the statutory liability.

4. The contention with respect to certain persons having been treated differently and having paid the retirement benefits overlooking seniority has also been dealt with by the respondent Corporation in its counter affidavit dated 26.03.2015 in paragraph 5. With respect to two of such persons it has been stated that the same was only on account of orders issued by this Court and the others

were paid such benefits prior to Annexure R1(a) judgment.

5. In such circumstance, considering the directions in Annexure R1(a), this Court, at this point of time, can only direct that the seniority as directed in Annexure R1(a) would be strictly complied with and the petitioners too paid and disbursed their retirement benefits reckoning the last pay drawn at the age of 58, on the date of their superannuation, for computation of pension.

Writ petition would stand disposed of with the above directions.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

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P.A to Judge