

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

WP(C).No. 34615 of 2014 (B)

PETITIONER(S):

P.M.SAITH MOHAMMED
ASSISTANT ENGINEER, (KSEB) (RETIRED)
RESIDING AT PALLIKKARA HOUSE, SOUTH VAZHAKULAM P.O.
ALUVA-683105.

BY ADVS.SRI.MURALI PURUSHOTHAMAN
SRI.DEEPULAL MOHAN
SMT.S.LEENA

RESPONDENT(S):

1. THE KERALA STATE ELECTRICITY BOARD LIMITED
REPRESENTED BY ITS SECRETARY (ADMINISTRATION)
VYDYUTHI BHAVANAM, PATTOM, THIRUVANANTHAPURAM-695004.

2. THE SECRETARY (ADMINISTRATION)
THE KERALA STATE ELECTRICITY BOARD LIMITED
VYDYUTHI BHAVANAM, PATTOM, THIRUVANANTHAPURAM-695004.

3. THE DEPUTY CHIEF ENGINEER,
THE KERALA STATE ELECTRICITY BOARD LIMITED
ELECTRICAL CIRCLE, VYDYUTHI BHAVANAM, POOPANI ROAD
PERUMBAVOOR-683542.

4. THE EXECUTIVE ENGINEER,
THE KERALA STATE ELECTRICITY BOARD LIMITED
ELECTRICAL DIVISION, ALUVA-683101.

5. THE EXECUTIVE ENGINEER,
THE KERALA STATE ELECTRICITY BOARD LIMITED
ELECTRICAL DIVISION, MUVATTUPUZHA-686661.

6. THE LEGAL ADVISOR AND DISCIPLINARY ENQUIRY OFFICER,
OFFICE OF THE LEGAL ADVISOR AND DISCIPLINARY ENQUIRY OFFICER
THE KERALA STATE ELECTRICITY BOARD LIMITED
VYDYUTHI BHAVANAM, PATTOM, THIRUVANANTHAPURAM-695004.

7. THE CHIEF ENGINEER (HRM)
THE KERALA STATE ELECTRICITY BOARD LIMITED
VYDYUTHI BHAVANAM, PATTOM, THIRUVANANTHAPURAM-695004.

R1-R7 BY ADV. SRI.K.S.ANIL, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS:

P1: COPY OF THE JUDGMENT DATED 14.07.2006 OF THIS HON'BLE COURT IN O.P.4676/2002.

P2: COPY OF THE 'APPLICATION FOR WITHDRAWAL OF DEMAND ALREADY RAISED' DATED 10.1.2007 SUBMITTED BEFORE THE 4TH RESPONDENT.

P2 (A) : COPY OF EXT.P2.

P3: COPY OF LETTER NO.BB/TGN/351/06-07 DATED 11.01.2007 OF THE ASSISTANT EXECUTIVE ENGINEER ADDRESSED TO THE 4TH RESPONDENT AND ACCOMPANYING EXT.P2.

P4: COPY OF THE LETTER NO.GB/CASE WITHDRAWL/07/1680/DATED 1.08.2007 OF THE 4TH RESPONDENT TO THE 2ND RESPONDENT.

P5: COPY OF LETTER NO.LA V/12920/06 DATED 01.09.2007 OF THE JOINT SECRETARY (LAW) TO THE 4TH RESPONDENT.

P6: COPY OF LETTER BB/OP NO.4676/02/07-08/152 DATED 17.09.2007 SUBMITTED BY THE PETITIONER TO THE 4TH RESPONDENT.

P7: COPY OF LETTER NO.GB/CASES/12-13/2330 DATED 9.11.2012 OF THE 4TH RESPONDENT TO THE 2ND RESPONDENT.

P8: COPY OF THE BOARD ORDER NO.B.O.D. (D&GE) NO.1238/2014 (LA.V/13020/2012) DATED 24.04.2014.

P9: COPY OF LETTER NO.GB/CASES/2014-15/357 DATED 10.06.2014 OF THE 4TH RESPONDENT TO THE 3RD RESPONDENT.

P10: COPY OF THE REPORT NO.GB-CASES/2014-15/1327 DATED 02.07.2014 SUBMITTED BY THE 3RD RESPONDENT BEFORE THE 2ND RESPONDENT.

P11: COPY OF LR.NO.LA V/13020/2012 DATED 02.08.2014 OF THE 6TH RESPONDENT ADDRESSED TO THE 3RD RESPONDENT.

P12: COPY OF ENDORSEMENT MADE BY THE 3RD RESPONDENT ON THE REVERSE SIDE OF EXT.P11 ENDT.NO.GB/DA/AE/14-15/2282 DATED 25.08.2014.

P13: COPY OF EXPLANATION DATED 27.08.2014 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

P14: COPY OF LETTER NO.ECP GB/DA/2014-15/2595 DATED 17.09.2014 OF THE 3RD RESPONDENT ADDRESSED TO THE SENIOR LAW OFFICER OF KSEB.

P15: COPY OF LETTER NO.GB/GENERAL/2014-15/1044 DATED 29.09.2014 OF THE 4TH RESPONDENT ADDRESSED TO THE 5TH RESPONDENT.

P16: COPY OF THE RELIEVING MEMO ISSUED TO THE PETITIONER NO.EB-2/PENSION OFFICER/14-15/800 DATED 30.09.2014 ISSUED BY THE 5TH RESPONDENT.

P17: COPY OF LETTER NO.EB-2/PENSION/2014-2015/845 DATED 09.10.2014 ISSUED BY THE 5TH RESPONDENT TO THE 3RD RESPONDENT.

P18: COPY OF LETTER NO.LA.V/13020/2012 DATED 10.10.2014 OF THE 6TH RESPONDENT TO THE 3RD RESPONDENT.

P19: COPY OF LETTER NO.GB/GL-SAIDU MUHAMMED/AE/2014-15/3056 DATED 18.10.2014 OF THE 3RD RESPONDENT TO THE SENIOR LAW OFFICER IN THE OFFICE OF THE 6TH RESPONDENT.

P20: COPY OF LETTER NO.GB/GL-DA/14-15/3323 DATED 4.11.2014 OF THE 3RD RESPONDENT ADDRESSED TO THE 6TH RESPONDENT.

P21: COPY OF REPRESENTATION DATED 24.11.2014 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

P22: COPY OF LETTER NO.LA.V/13020/2012 DATED 13.11.2014 OF THE 6TH RESPONDENT TO THE 3RD RESPONDENT.

P23: COPY OF LETTER NO.EB2/2014-15/1113 DATED 1.12.2014 OF THE 5TH RESPONDENT TO THE PETITIONER.

P24: COPY OF THE TRIPARTITE AGREEMENT MADE BY THE GOVERNMENT OF KERALA AND THE KSEB LIMITED AND THE EMPLOYEE'S UNIONS AND ASSOCIATIONS DATED 1.8.2014.

P25: COPY OF THE ORDER DATED 13.12.2006 OF THIS HON'BLE COURT IN R.P.NO.1104 OF 2006 IN O.P.NO.4676/2002.

RESPONDENT(S) ' EXHIBITS:NIL

True Copy/

P A to Judge

A.MUHAMED MUSTAQUE, J.
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W.P(C).No.34615 of 2014
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Dated this the 23rd day of February, 2015

JUDGMENT

Petitioner, a retired employee from the Kerala State Electricity Board, approached this Court on account of withholding pensionary benefits due to him.

2. It seems, a consumer approached this court filing an original petition challenging the demand and petitioner herein has complied with the judgment without obtaining sanction from the KSEB.

3. Petitioner submits that he was not a party to the original petition, therefore on account of any implication arising out of judgment, he cannot be made liable. It is further submitted that he is bound to honour any judgment passed by the High Court and complying the judgment cannot be treated as dereliction of duty. It is further submitted that he has not caused any loss to the Board.

4. It is admitted before this court that there are no proceedings initiated against the petitioner which has concluded that the Board suffered an established loss. Learned counsel for the petitioner argued that any threatened proceeding against the

petitioner to recover any loss alleged to have been suffered by the Board is also illegal. The alleged loss appears to have been calculated to ₹2,25,933/-. It is stated in the counter that no department action has been initiated against the petitioner. However, Board has quantified the loss suffered alleging negligence on the part of the petitioner.

5. I am of the view, pensionary benefits declared is a right to property as held in the judgment of the Supreme Court in **(State of Jharghand Vs. Jitendra Kumar Srivastava (2013(3) KLT 782(SC))** and it cannot be withheld even pending an enquiry or departmental proceeding against the employee. In view of the matter, there is no proceeding to show that Board has sustained any loss on account of negligence of the petitioner, I am of the view, entire pensionary benefits shall be released to the petitioner without any delay. Needful shall be done within a period of six weeks from the date of receipt of a copy of this judgment.

6. Learned Standing Counsel for the Board submits that they may be reserved with a liberty to proceed against the petitioner if so warranted, in accordance with law. I am not expressing anything on the merit of the objection raised by the

respondent, nevertheless if so warranted, Board is at liberty to proceed against the petitioner in accordance with law if otherwise such a remedy is available to the Board under the law.

The Writ Petition is disposed of.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

Sbna/23/02/15