IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

THURSDAY, THE 03RD DAY OF DECEMBER 2020 / 12TH AGRAHAYANA, 1942

WP(C).No.26860 OF 2020(F)

PETITIONER:

NARAYANAN K.M.
AGED 57 YEARS
S/O. G.K.KRISHNAN NAMBIAR, ASSISTANT ENGINEER, KWA (RTD.), RESIDING AT UTHRADAM, KORARAMBU KOLOLAM, EDAYANNUR P.O., KEEZHALLUR, KANNUR DISTRICT-670 595.

BY ADVS.
SRI.P.K.MOHAMED JAMEEL
SHRI.JINU JOSEPH

RESPONDENTS:

1 **THE MANAGING DIRECTOR**
KERALA WATER AUTHORITY, 'JALABHAVAN',
THIRUVANANTHAPURAM-695033.

2 **THE SUPERINTENDING ENGINEER,**
KERALA WATER AUTHORITY, PH CIRCLE, KANNUR-670012.

3 **THE ACCOUNTS OFFICER (PAY SLIP AND PENSION),**
KERALA WATER AUTHORITY, 'JALABHAVAN',
THIRUVANANTHAPURAM-695033.

R1-3 BY ADV. SMT.MARY BENJEMIN

SMT. MARY BENJAMIN - SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner says that he retired from the services of the Kerala Water Authority as an Assistant Engineer on 30/07/2019, but that he has not been sanctioned full pension and other retiral benefits for no fault that can be attributed to him. He submits that he was originally promoted as a Draftsman Grade I on 23/01/2003 and that it was so endorsed in his Service Book, but that he assumed charge in the promoted post only on 25/02/2003. He says that he had opted for Pay Revision of the year 2004, taking the date of option as 25/01/2005, which is the date of completion of two years of service as Draftsman Grade I; however, that the 3rd respondent has objected to the fixation of pay based on this option date, saying that it should have been only with effect from 25/02/2005.

2. The petitioner says that he, therefore, made a re-option based on Ext.P5 order of the 1st respondent but that the 3rd

respondent has objected to it, through Ext.P6, stating that the re-option of the petitioner cannot be done in such manner, since such benefit is available only to Time Bound Higher Grade and not for Pay Revision.

3. The petitioner says that, consequently, in Ext.P6, it has been directed to quantify the excess pay drawn by him and to recover it from his DCRG. He says that since this is contrary to law and against the judgment of the Hon'ble Supreme Court in ***State of Punjab & others vs. Rafiq Masih [2015 (1) KLT 429](SC)*** he has preferred Ext.P7 representation before the 1st respondent - Managing Director of the Kerala Water Authority and prays that the same be directed to be taken up and disposed of at he earliest.

4. In response to the afore submissions made on behalf of the petitioner by his learned counsel Shri.P.K.Mohamed Jameel, the learned Standing Counsel for the Kerala Water Authority, Smt.Mary Benjamin, submitted that if

the petitioner only requires Ext.P7 to be taken up and disposed of, there is no legal impediment in the same being done; but prayed that this Court may not consider his contentions on its merits and permit the Managing Director of the Kerala Water Authority to consider Ext.P7 representation as per law.

5. When I consider the afore submissions, it is without doubt that even though the petitioner has made various allegations and averments in this Writ Petition, the same cannot be looked into by this Court on its merits at this stage because, admittedly, he has invoked his alternative statutory remedy by preferring Ext.P7 representation before the 1st respondent - Managing Director. I am, therefore, of the firm view that the said Authority must be directed to dispose of the same as per law.

In the afore circumstances, I order this writ petition and direct the 1st respondent - Managing Director to take up and consider

Ext.P7 representation of the petitioner and dispose of the same, after affording him an opportunity of being heard – either physically or through video conferencing – thus culminating in an appropriate order thereon, as expeditiously as is possible, but not later than two months from the date of receipt of a copy of this judgment.

Sd/-

DEVAN RAMACHANDRAN

JUDGE

MC/7.12.2020

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	THE TRUE COPY OF THE ORDER OF 1ST RESPONDENT DATED 23.1.2003.
EXHIBIT P2	THE TRUE COPY OF THE ORDER NO.KWA/AO/(ESTT)PEN.10022/574 DATED 17.8.2019.
EXHIBIT P3	THE TRUE COPY OF THE ORDER NO.KWA/AO/(ESTT)PEN.10022/1235 DATED 27.10.2019.
EXHIBIT P4	THE TRUE COPY OF THE REPRESENTATION DATED 16.1.2020 SUBMITTED BY THE PETITIONER.
EXHIBIT P5	THE TRUE COPY OF THE ORDER NO.KWA/JB/H.O./E.I/17866/2019 DATED 15.6.2020.
EXHIBIT P6	THE TRUE COPY OF THE LETTER NO.KWA/AO(ESTT) PEN.10022 DATED 17.9.2020 ISSUED BY 3RD RESPONDENT TO 2ND RESPONDENT.
EXHIBIT P7	THE TRUE COPY OF THE REPRESENTATION DATED 27.10.2020 SUBMITTED BY PETITIONER.

RESPONDENT'S/S EXHIBITS:

NIL

MC

(TRUE COPY) PA TO JUDGE