

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

MONDAY, THE 21ST DAY OF JANUARY 2019 / 1ST MAGHA, 1940

WP(C).No. 37728 of 2017

PETITIONER:

THE FOOD CORPORATION OF INDIA EMPLOYEES'
CO-OPERATIVE SOCIETY LTD. E-751,
KOCHI - 682 011, REPRESENTED BY ITS SECRETARY.

BY ADVS.
SRI.M.M.MONAYE
SRI.DESI MATTHAI

RESPONDENTS:

- 1 R.SHAJI NAIR
'SHAJI NILAYAM', NETTAYAM,
THIRUVANANTHAPURAM - 695 013.
- 2 K.J. JAYAN,
DRIVER GRADE - II,
FOOD CORPORATION OF INDIA, DISTRICT OFFICE,
KOZHIKODE - 673 005.
- 3 K. SAJITHKUMAR,
WATCHMAN,
FOOD CORPORATION OF INDIA,
DISTRICT OFFICE, KOZHIKODE - 673 005.
- 4 THE AREA MANAGER,
FOOD CORPORATION OF INDIA,
DISTRICT OFFICE, WEST HILL,
KOZHIKODE - 673 005.
- 5 THE GENERAL MANAGER,
THE FOOD CORPORATION OF INDIA, REGIONAL
OFFICE, THIRUVANANTHAPURAM - 695 004.

BY ADVS.
SRI.K.K.AKHIL
SRI.E.M.ABDUL KHADER
SRI.VIVEK VARGHESE P.J., SC, FOOD CORPORATION
OF INDIA
SMT.AMRIN FATHIMA

SMT.M.A.VAHEEDA BABU
SRI.BABU KARUKAPADATH
SRI.K.M.FAISAL (KALAMASSERY)
SRI.MITHUN BABY JOHN
SRI.P.U.VINOD KUMAR
SRI.T.A.UNNIKRISHNAN
SRI.VIVEK VARGHESE P.J. SC FOOD CORPORATION OF
INDIA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
21.01.2019, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

The petitioner, which is a Society for the employees of the Food Corporation of India registered under the Kerala Co-operative Societies Act, 1969 and the Rules made thereunder, has filed this writ petition under Article 226 of the Constitution of India, seeking a writ of mandamus commanding respondents 4 and 5, namely, the Area Manager of the Food Corporation of India at Kozhikode and the General Manager of the Food Corporation of India at Thiruvananthapuram to retain with them the terminal benefits, including the Provident Fund due to the 1st respondent, and not to disburse the same to the said respondent. The petitioner has also sought for a writ of mandamus commanding respondents 4 and 5 to recover the amount due to the petitioner Society from the terminal benefits, including the Provident Fund amount due to the 1st respondent, and to remit the same to the petitioner Society.

2. On 23.11.2017, when this writ petition came up for admission, this Court admitted the matter on file. Urgent notice by speed post was ordered to respondents 1 to 3. The learned Standing Counsel for Food Corporation of India took notice for respondents 4 and 5. This Court passed an interim

order directing respondents 4 and 5 to retain an amount of Rs.6,00,000/- from the terminal benefits payable to the 1st respondent, other than the amounts due to him by way of gratuity. The said interim order granted for a period of one month was extended from time to time, which is still in force.

3. A counter affidavit has been filed by respondents 2 and 3, who are the guarantors in the loan availed by the 1st respondent from the petitioner Society.

4. Heard the learned counsel for the petitioner, the learned counsel for respondents 2 and 3 and also the learned Standing Counsel for FCI, representing respondents 4 and 5. Despite service of notice, none appears for the 1st respondent.

5. The learned Standing Counsel for FCI, on instructions from respondents 4 and 5, would submit that the 1st respondent has already been terminated from service on account of unauthorised absence and the terminal benefits payable to the 1st respondent, which are now lying with respondents 4 and 5, shall be disbursed to the petitioner Society, subject to the conditions of Ext.P4 bond and Ext.P7 consent letter executed by the 1st respondent, within a period of four weeks, with due intimation to the 1st respondent.

6. In such circumstances, this writ petition is disposed of by directing respondents 4 and 5 to take necessary steps to ensure that the terminal benefits payable to the 1st respondent, who has already been terminated from service on account of unauthorised absence, which are now lying with the said respondents, are disbursed to the petitioner Society, to the extent permissible as per Ext.P4 bond and Ext.P7 consent letter executed by the 1st respondent, with prior intimation to the 1st respondent. Steps in this regard shall be taken, as expeditiously as possible, at any rate, within a period of four weeks from the date of receipt of a certified copy of this judgment.

Sd/-

**ANIL K. NARENDRAN
JUDGE**

yd

APPENDIX**PETITIONER'S EXHIBITS:**

EXHIBIT P1	TRUE COPY OF THE APPLICATION FOR THE LOAN NO.10/11-12
EXHIBIT P2	TRUE COPY OF THE APPLICATION FOR THE LOAN NO.20/11-12
EXHIBIT P3	TRUE COPY OF THE APPLICATION FOR THE LOAN NO.11/11-12.
EXHIBIT P4	TRUE COPY OF THE BONDS EXECUTED BY THE RESPONDENT NO.1 IN THE ABOVE LOAN.
EXHIBIT P5	TRUE COPY OF THE BONDS EXECUTED BY THE RESPONDENT NO.2 IN THE ABOVE LOAN.
EXHIBIT P6	TRUE COPY OF THE BONDS EXECUTED BY THE RESPONDENT NO.3 IN THE ABOVE LOAN.
EXHIBIT P7	TRUE COPY OF THE CONSENT LETTERS SIGNED AND ISSUED TO THE PETITIONER SOCIETY BY THE 1ST RESPONDENT.
EXHIBIT P8	TRUE COPY OF THE CONSENT LETTERS SIGNED AND ISSUED TO THE PETITIONER SOCIETY BY THE 2ND RESPONDENT.
EXHIBIT P9	TRUE COPY OF THE CONSENT LETTERS SIGNED AND ISSUED TO THE PETITIONER SOCIETY BY THE 3RD RESPONDENT.
EXHIBIT P10	TRUE COPY OF ONE OF THE LETTERS DATED 10.5.2013 SENT TO THE 4TH RESPONDENT WITH COPY TO THE 5TH RESPONDENT.
EXHIBIT P11	TRUE COPY OF THE LETTER DATED 15.6.2013 SENT BY THE 1ST RESPONDENT.
EXHIBIT P12	TRUE COPY OF ONE OF THE LETTERS DATED 31.7.2013 SENT BY REGISTERED POST TO THE 1ST RESPONDENT.
EXHIBIT P13	TRUE COPY OF THE SAID INTIMATION DATED 22.7.2013 BY THE 4TH RESPONDENT TO THE PETITIONER SOCIETY.

EXHIBIT P14 TRUE COPY OF THE AWARD DATED
16.10.2016 IN THE A.R.C. NO. 1484/14.

EXHIBIT P15 TRUE COPY OF THE AWARD DATED
16.10.2016 IN THE A.R.C. NO. 1485/14.

EXHIBIT P16 TRUE COPY OF THE AWARD DATED
16.10.2016 IN THE A.R.C. NO. 1486/14.

EXHIBIT P17 TRUE COPY OF THE LETTER DATED
1.9.2017, SENT BY REGISTERED POST,
REQUESTING 4TH RESPONDENT TO TAKE
NECESSARY STEPS TO RECOVER THE AMOUNTS
DUE TO THE SOCIETY FROM THE AMOUNTS
PAYABLE TO THE 1ST RESPONDENT.

RESPONDENTS' EXHIBITS:NIL

TRUE COPY

P.A. TO JUDGE