

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(C).No. 2152 of 2014 (T)

PETITIONER :

G. SUKUMARIAMMA,
W/O. L.SANKARAN KUTTY, SANKARALAYAM, MUZHANGODI
THODIYUR P.O., KARUNAGAPPALLY, KOLLAM DISTRICT.

BY ADVS.SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

RESPONDENTS :

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1. THE DIRECTOR, DAIRY DEVELOPMENT DEPARTMENT
PATTOM P.O., THIRUVANANTHAPURAM-695 001.
 2. THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (AUDIT)
THIRUVANANTHAPURAM REGION CO-OPERATIVE MILK PRODUCERS UNION
KSHEERA BHAVAN, PATTOM P.O., THIRUVANANTHAPURAM-695 001.
 3. THE DEPUTY DIRECTOR
DAIRY DEVELOPMENT DEPARTMENT, KOLLAM,
KOLLAM DISTRICT-691 001.
 4. THE DAIRY EXTENSION OFFICER,
DAIRY EXTENSION OFFICE, KARUNAGAPPALLY, KOLLAM - 690 518.
 5. THE BOARD OF DIRECTORS OF THE PULIYOORVANCHI VADAKKU
KSHEEROLPADAKA SAHAKARANA SANGHAM Q 128(D)APCOS,
REPRESENTED BY ITS PRESIDENT, THAZHAVA P.O.,
KARUNAGAPPALLY, KOLLAM-690 523.
 6. THE PULIYOORVANCHI VADAKKU KSHEEROLPADAKA
SAHAKARANA SANGHAM Q 128(D)APCOS,
REPRESENTED BY ITS SECRETARY
THAZHAVA P.O., KARUNAGAPPALLY, KOLLAM-690 523.
 7. THE KERALA STATE CO-OPERATIVE EMPLOYEES PENSION BOARD
REPRESENTED BY ITS SECRETARY, P.B.NO.85, KALA NIVAS,
CHINMAYA LANE, KUNNUMPURAM, THIRUVANANTHAPURAM-695 001.

R1 TO R4 BY SENIOR GOVERNMENT PLEADER SRI. MUHAMMED SHAFI
R5,R6 BY ADVS. SRI.M.V.BOSE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE
R7 BY ADV. SRI.K.R.SUNIL,SC,

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12-10-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : COPY OF THE ORDER OF SUSPENSION DTD.17.3.2010.
- P2 : COPY OF THE LETTER SUBMITTED BY THE PRESIDENT DTD.8.5.2008.
- P3 : COPY OF THE SHOW CAUSE NOTICE ISSUED BY THE ENQUIRY OFFICER
DTD.20.7.2010.
- P4 : COPY OF THE EXPLANATION SUBMITTED BY THE PETITIONER BEFORE THE
ENQUIRY OFFICER DTD.30.7.2010.
- P5 : COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE
3RD RESPONDENT DTD.15.2.2011.
- P6 : COPY OF THE REPLY NO.G1/10237/12 DTD.19.10.2012 OF THE FIRST
RESPONDENT.

RESPONDENT(S)' EXHIBITS :

- EXT.R5(a): COPY OF EXTRACT OF AUDIT CERTIFICATE FOR 2007-08.
- EXT.R5(b): COPY OF THE ENQUIRY REPORT.
- EXT.R5(c): COPY OF THE LETTER DT 8/3/2011.
- EXT.R5(d): COPY OF THE DECISION OF THE COMMITTEE DT 30/3/2011.
- EXT.R5(e): COPY F THE LETTER DT 26/7/2011 FROM THE DEPUTY DIRECTOR TO
THE SECRETARY.
- EXT.R5(f): COPY F THE LETTER DT 20/7/2012.

//TRUE COPY//

P.S. TO JUDGE

bp

A.M. SHAFFIQUE, J.

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W.P. (C) No. 2152 of 2014
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Dated this, the 12th day of October, 2015

J U D G M E N T

Petitioner has approached this Court seeking for a direction to respondents 5 and 6 to disburse the retirement benefits due to the petitioner.

2. It is *inter alia* contended that the petitioner while working as the Secretary of the 6th respondent Society retired from service on superannuation on 31/3/2010. Prior to the retirement, she was suspended from service w.e.f. 18/3/2010. Thereafter, she was served with Ext.P3 by the Enquiry Officer indicating that she is under obligation to pay a total amount of ₹19,32,092.02/- to the Society. She filed her objection as Ext.P4 disputing the liability as aforesaid and also contending that after retirement, no enquiry had been conducted against her. Still, no action has been taken by respondents to pay her the retirement benefits. Petitioner was later served with Ext.P6 dated 19/10/2012 wherein it is stated that an amount of ₹2,72,891/- is due from her.

3. The main contention urged by the petitioner is that in the absence of any rules which enable the Society to conduct any enquiry or to withhold the DCRG and other pensionary benefits, respondents 5 and 6 are liable to pay the petitioner all the amounts due to her which she was entitled to receive by way of pensionary benefits.

4. Learned counsel appearing for the 6th respondent would submit that the liability of the petitioner had been fixed for an amount of ₹16,90,534/- which she is liable to pay and the Society is entitled to adjust the same from the DCRG amount.

5. Learned counsel appearing for the 7th respondent would submit that 6th respondent had not forwarded the pension docket and the necessary contribution for providing the pension to the petitioner and on receipt of such documents/contribution, the 7th respondent shall take necessary steps to give pension to the petitioner.

6. Having regard to the aforesaid factual situation, it is clear that though Ext.P3 had been issued, the 6th respondent Society was not in a position to establish under what circumstances the DCRG and pension can be withheld from the

petitioner. It is apparent that in the absence of any specific statutory provision, which enables the Society to withhold the DCRG on the allegation of fixation of liability by an Enquiry Officer, it is not open for them to recover any amount from DCRG. The same is the situation as far as the pension is concerned. Pension is payable after the date of superannuation. It is also apparent that no enquiry is pending as matters stand now against the petitioner and no disciplinary action had been taken by the Society so far. Hence, the petitioner is also entitled for pension for which the 6th respondent Society is liable to forward the contribution of the petitioner towards pension to the 7th respondent and also the pension docket to enable the 7th respondent to release the pension to the writ petitioner.

Under such circumstances, this writ petition is disposed of as under;

1. That the 6th respondent shall release the DCRG and other eligible benefits to the petitioner within a period of one month from the date of receipt of a copy of this judgment.
2. The 6th respondent shall hand over the pension docket and other documents along with the contribution to the 7th

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respondent to enable the 7th respondent to pay the pension to the petitioner. The 6th respondent shall hand over the documents and contribution within a period of one month from the date of receipt of a copy of this judgment and the 7th respondent shall thereafter, within a further period of two months, pay pension to the petitioner.

3. It is made clear that nothing prevents the Society from recovering the liability, if any, by initiating appropriate proceedings in accordance with law.

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp
12/10/2015

//True Copy//
PS to Judge