

Dr.Muralikrishna Dev Vs. the Assistant General Manager (Region)

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Court : Kerala

Decided On : Dec-20-2012

Judge : Hon'Ble the Chief Justice Mrs. Manjula Chellur

Appellant : Dr.Muralikrishna Dev

Respondent : The Assistant General Manager (Region)

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HON'BLE THE CHIEF JUSTICE MRS. MANJULA CHELLUR & THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE THURSDAY, THE 20TH DAY OF DECEMBER 2012 29TH AGRAHAYANA 193 WA.No. 2239 of 2012 () IN RP.1068/2012 ----- AGAINST THE ORDER/JUDGMENT IN RP.1068/2012 DATED 26 11-2012 AGAINST THE ORDER/JUDGMENT IN WPC.24361/2012 DATED 30 10-2012 APPELLANT(S): ----- DR.MURALIKRISHNA DEV, S/O.APPU VAIDYAR, CHERUVELIPADIKKAL HOUSE, VALAVAYAL POST, PAPLASSERY, KENICHIRA, WAYANAD DISTRICT, PIN 67.596. BY ADV. SRI.B.SAINU RESPONDENT(S): ----- 1. THE ASSISTANT GENERAL MANAGER (REGION), THE KERALA STATE FINANCIAL ENTERPRISES (KSFE) LTD., REGIONAL OFFICE, THRISSUR DISTRICT 68 001.

2. THE KERALA STATE FINANCIAL ENTERPRISES, REPRESENTED BY BRANCH MANAGER, MANANTHAVADY 67 645.

3. THE SUB TREASURY OFFICER, SUB TREASURY, PULPALLY, WAYANAD 67 579. R1 & R2 BY SRI.P.V.LONACHAN, SC, KSFE. R2 BY GOVERNMENT PLEADER SRI.P.I.DAVIS THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 20-12-2012, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: VPV MANJULA CHELLUR, C.J & A.M.SHAFFIQUE, J.

----- W.A. No. 2239 of 2012
----- Dated this the 20th day of December, 2012

JUDGMENT

MANJULA CHELLUR, C.J The appellant/writ petitioner approached the learned Single Judge seeking a direction that the respondent-authority should not recover any amount from the petitioner simultaneously. The main contention of the writ petitioner was to the effect that his present salary is Rs.33,160/- together with D.A. at 38% and after all compulsory deductions, including GPF contribution, his home-take salary is Rs. 19,000/-. Therefore, if at all any attachment or recovery is made from the salary, Rs. 19,000/- should be taken as the amount to arrive at the quantum of amount that has to be recovered from the salary.

2. According to the appellant, the writ petitioner was not heard when writ petition came to be disposed of on 30.10.2012 after hearing the learned Standing Counsel for the respondent. However, the detailed order in Review Petition dated W.A. No. 2239 o

2. 26.11.2012 shows all the averments in the writ petition and the arguments of the writ petitioner were taken into consideration, while dismissing the Review Petition.

3. After referring to the details at Annexure - B, the gross salary of the petitioner is Rs.44,307/-. The recovery from this amount is about Rs.25,057/- . The home-take salary is Rs.19,250/-. The objection is that his contribution to GPF cannot be taken into consideration in view of S. 60 of C.P.C. Therefore, only Rs.19,250/- has to be taken as the amount from which 1/3rd amount that could be recovered has to be worked out.

4. Having regard to the basic salary of the appellant i.e Rs. 26,000/- and odd, the compulsory contribution to GPF cannot be more than Rs.1500/-. If he voluntarily contributing more than Rs.1,500/-, the entire amount cannot be considered as compulsory contribution. Therefore, the learned Single Judge was justified in saying that the amount beyond his compulsory contribution paid towards GPF every month also has to be added to the home-take salary or net salary and then work out the amount which has to be recovered in accordance with the procedure. W.A. No. 2239 o

3. We do not find any ground to interfere with the same. Accordingly the appeal is dismissed. (MANJULA CHELLUR, CHIEF JUSTICE) (A.M.SHAFFIQUE, JUDGE) rka

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