

T M Narayanan, vs Kerala Toddy Workers Welfare Fund Board ,

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Court : Kerala

Decided On : Jul-29-2022

Judge : Honourable Mr. Justice Amit Rawal

Appeal No. : WP(C)/24593/2022

Appellant : T M Narayanan,

Respondent : Kerala Toddy Workers Welfare Fund Board ,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE AMIT RAWAL TH
FRIDAY, THE 29 DAY OF JULY 2022 / 7TH SRAVANA, 1944 WP(C)
NO. 24593 OF 2022 PETITIONER: T M NARAYANAN, AGED 70
YEARS, S/O.MADHAVAN, THADATHIL (H), VAZHAKKULAM P.O.,
KAVANA, THODUPUZHA, IDUKKI DISTRICT - 686 670. BY ADVS.
R.LAIJU T.U.SUJITH KUMAR R.ANAS MUHAMMED SHAMNAD
SARUN RAJAN ROOPESH N.R. RESPONDENTS:

1 KERALA TODDY WORKERS WELFARE FUND BOARD
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER, ULLOOR
GARDEN, PAROTTUKONAM, THIRUVANANTHAPURAM DISTRICT -

695 044. 2 CHIEF WELFARE FUND INSPECTOR, KERALA TODDY WORKERS' WELFARE FUND BOARD, ULLOOR GARDEN, PAROTTUKONAM, THIRUVANANANTHAPURAM DISTRICT - 695 044. 3 WELFARE FUND INSPECTOR, IDUKKI OFFICE OF THE WELFARE FUND INSPECTOR, HOUSING BOARD COLONY, VENGALLUR P.O., THODUPUZHA, IDUKKI DISTRICT - 685 608. BY ADV. SRI.G.SANTHOSH KUMAR, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29.07.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) NO. 24593 OF 2022 -2-

JUDGMENT

Petitioner has approached this Court with the following prayers:

i. Issue a writ in the nature of certiorari or any other appropriate writ, order or direction calling for the records leading to Ext.P3 order and quash the same; ii. Issue a writ in the nature of mandamus or any other appropriate writ, order or direction commanding the 2nd and 3rd respondents to disburse welfare fund pension and gratuity and other service benefits to the petitioner, within a time frame as may please be fixed by this Honble Court; iii. Issue a writ in the nature of mandamus or any other appropriate writ, order or direction commanding the 2nd and 3rd respondents to consider Ext.P1 application afresh, within a time frame as may please be fixed by this Honble Court;

iv. Issue any such other appropriate writ, order

or direction as this Honble Court deems fit and proper considering the circumstances of WP(C) NO. 24593 OF 2022 -3- the case in the interest of justice.

2. Petitioner worked for a period of 27 years as a salesman in Toddy shop No.22, Thekkumabhogom, Thodupuzha Excise Range. He was also registered under the Kerala Toddy Workers Welfare Fund Scheme with

Registration No.IDK-1511 and account No.J-72-39. Before attaining the age of retirement/superannuation petitioner discontinued the membership owing to ill-health and submitted an application before respondent No.2 - Chief Welfare Fund Inspector, Kerala Toddy Workers Welfare Fund Board through respondent No.3 - Welfare Fund Inspector, Idukki for obtaining the Welfare Fund amount and the gratuity, as evident from Ext.P1. Along with Ext.P1 had also produced an undated Medical Certificate issued by the District Medical Board, Idukki

Ext.P2. Respondent No.3 forwarded the application to respondent No.2 which was returned on the ground that there was a defect in the Medical Certificate which is to be rectified. To the utter dismay of the petitioner, WP(C) NO. 24593 OF 2022 - 4- respondent No.2 passed an order Ext.P3 dated 07.10.2015 rejecting the case of the petitioner on account of the fact of the Medical Certificate was not maintainable. Petitioner submitted a representation to the respondent No.3 which was duly replied that the application was already rejected vide communication dated 09.03.2018 Ext.P4. Again a representation was submitted along with the Medical Certificate by rectifying the defect on 06.08.2018 before respondent No.3 and also to the respondent No.2 on 30.07.2018. Respondent No.2 forwarded the same to respondent No.3 and called for the report from the respondent No.3 as evident from the communication dated 21.08.2018 Ext.P6. Respondent No.3 submitted a report dated 19.09.2018 Ext.P7.

3. Ext.P3 order has been passed by the respondent No.2 without affording any opportunity of hearing to the petitioner and also without noticing that the medical WP(C) NO. 24593 OF 2022 -5- certificate was duly corrected and submitted before the 3rd respondent.

4. This Court noticed the fact that the objection of

delay and laches would not be taken by the respondents for the reason that non payment of pension is a recurring cause of action, but called upon the counsel for the petitioner whether the defect in the Medical Certificate submitted along with the application has been rectified or not. Counsel for the petitioner, on the basis of the instructions received from the petitioner, submits that the defect has been rectified and the application has been submitted.

5. Counsel for the respondents submits that in case any application with corrected medical certificate has been submitted, respondents would not be averse in taking the call.

6. Without expressing any opinion on the merit of the matter, I dispose of the writ petition by issuing WP(C) NO. 24593 OF 2022 -6- directions to the respondent Nos.2 and 3 to decide the

case of the petitioner for payment of the pension and gratuity on receipt of the fresh documents purported to have been submitted by the petitioner, on the basis of the statements made by the counsel on receipt of the instructions, within a period of two months from the date of receipt of a certified copy of the judgment and in case the respondents find out some defect, that may be pointed out in writing to the petitioner who will rectify the same and submit again with proof thereof, and decide the case within the aforementioned time slot after affording an opportunity of hearing.

Sd/- AMIT RAWAL JUDGE vv WP(C) NO. 24593 OF 2022 -7- APPENDIX OF WP(C) 24593/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE APPLICATION DATED RESPONDENT THROUGH THE 3RD RESPONDENT, ALONG WITH ITS ENGLISH TRANSLATION. Exhibit P2 TRUE COPY OF THE MEDICAL CERTIFICATE DATED NIL ISSUED BY THE DISTRICT MEDICAL BOARD, IDUKKI. Exhibit P3 TRUE COPY OF THE ORDER DATED 7/10/2015 ISSUED BY THE 2ND RESPONDENT, ALONG WITH ITS ENGLISH TRANSLATION. Exhibit P4 TRUE COPY OF THE LETTER DATED 9/3/2018 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER, ALONG WITH ITS ENGLISH Exhibit P5 TRUE COPY OF THE REPRESENTATION DATED RESPONDENT, ALONG WITH ITS ENGLISH Exhibit P6 TRUE COPY OF THE LETTER DATED 21/8/2018 ISSUED BY THE 2ND RESPONDENT TO THE 3RD RESPONDENT, ALONG WITH ITS ENGLISH Exhibit P7 TRUE COPY OF THE LETTER DATED 19/9/2018 ISSUED BY THE 3RD RESPONDENT TO THE 2ND RESPONDENT, ALONG WITH ITS ENGLISH