

Mohammed Ismail Vs. State of Kerala

Mohammed Ismail Vs. State of Kerala

SooperKanoon Citation : sooperkanoon.com/19862

Court : Kerala

Decided On : Dec-16-2014

Judge : Honourable Mr. Justice Dama Seshadri Naidu

Appellant : Mohammed Ismail

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU TUESDAY, THE 16TH DAY OF DECEMBER 2014 25TH AGRAHAYANA, 1936 WP(C).No. 32962 of 2014 (U) ----- PETITIONERS: -----

1. MOHAMMED ISMAIL, AGED 57 YEARS, EXECUTIVE ENGINEER (RTD), KAU, VELLANIKKARA, THRISSUR, S/O. LATE MOHAMMED, MARHABA P.O, KUNDALIYOOR, CHETTUVU, THRISSUR-680 616

2. K.R.SUMITHRA, AGED 57 YEARS, AYA (HIGHER GRADE) (RETD), KAU HIGH SCHOOL, VELLANIKKARA, THRISSUR, W/O. K.V. KUNHAPPAN, KADAVIL HOUSE, TMC 17543, SANTHI NAGAR, AARAMKALLU, PATTIKKAD P.O, THRISSUR-680 652

3. P.S INDIRA, AGED 56 YEARS, DUPLICATING MACHINE OPERATOR GR.I (RETD), VELLANIKKARA, THRISSUR, W/O. LATE P.K. SUDHAKARAN, PANDATH HOUSE, CHIRAKKEKODE, VELLANIKKARA P.O., THRISSUR-680

4. C.S PAREED, AGED56YEARS, PUMP OPERATOR(RETD), MECHANICAL SUB DIVISION, VELLANIKKARA, S/O.LATE SYED MUHAMMED C.M., CHIRAYIL HOUSE, CHIRAKKAKODE, VELLANIKKARA P.O., THRISSUR-680 654

5. P.K VEEVATHU, AGED57YEARS,PERMANENT LABOUR(RETD), PLANT PROPAGATION AND NURSERY MANAGEMENT UNIT, VELLANIKKARA, W/O.T AMUHAMMED, POKKAKKILLATH HOUSE, VELLANIKKARA P.O, THRISSUR-680 654

6. P.R JANAKY, AGED56YEARS, CLASS IV(SELECTION GRADE)(RETD), KAU HEAD QUARTERS, VELLANIKKARA, W/O.LATE M.N KRISHNAN, MENAGATH HOUSE, MADAKKATHARA P.O, THRISSUR-680 654

7. P.M.SANTHA, AGED57YEARS, SELECTION GRAMA COMPOSITOR(RETD),KAU PRESS, MANNUTHY, W/O.A.K MOHANDAS, ADHAMKAVIL HOUSE, PERINGHANUR, MUNDUR, PERAMANGALAM P.O, THRISSUR-680 545

8. SURESH BABU.K., AGED57YEARS, EXECUTIVE ENGINEER(RETD), S/O. K.E KRISHNAN, T.C.2/342(5),PVN/F-27, PILLAVEEDU NAGAR, KESEVADASAPURAM, PATTOM P.O, THIRUVANANTHAPURAM-695 004 BY ADVS.SRI.SHAJI P.CHALY SMT.C.S.SINDHU KRISHNAH sts 2/- -2-WP(C).NO.32962/2014 RESPONDENTS: -----

1. STATE OF KERALA, REPRESENTED BY ITS SECRETARY, AGRICULTURAL DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695 001

2. KERALA AGRICULTURAL UNIVERSITY, REPRESENTED BY ITS REGISTRAR, VELLANIKKARA, THRISSUR- 680 656

3. THE COMPTROLLER, KERALA AGRICULTURAL UNIVERSITY, VELLANIKKARA, THRISSUR-680 656 R1 BY GOVERNMENT PLEADER SRI.V.VIJULAL R2 & R3 BY SRI.BABU JOSEPH KURUVATHAZHA,SC THIS

WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16-12-2014,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: sts
WP(C).No. 32962 of 2014 (U) ----- APPENDIX
PETITIONER(S)' EXHIBITS ----- P1: TRUE COPY OF THE
PENSION

ORDER

ISSUED TO THE 1ST PETITIONER P2: TRUE COPY OF THE PENSION

ORDER

ISSUED TO THE 2ND PETITIONER P2(A):- TRUE COPY OF THE ENGLISH
TRANSLATION OF EXHIBIT P2 P3:- TRUE COPY OF THE PENSION

ORDER

ISSUED TO THE 3RD PETITIONER P4:- TRUE COPY OF THE PENSION

ORDER

ISSUED TO THE 4TH PETITIONER P5:- TRUE COPY OF THE PENSION

ORDER

ISSUED TO THE 5TH RESPONDENT P5(A):- TRUE COPY OF THE ENGLISH
TRANSLATION OF EXHIBIT P5 P6:- TRUE COPY OF THE PENSION

ORDER

ISSUED TO THE 6TH PETITIONER P7:- TRUE COPY OF THE PENSION

ORDER

ISSUED TO THE 7TH PETITIONER P8:- TRUE COPY OF THE PENSION

ORDER

ISSUED TO THE 8TH PETITIONER P9:- TRUE COPY OF THE

JUDGMENT

IN WPC NO.29623/2014 DTD 10/11/2014 RESPONDENT(S)' EXHIBITS: NIL
/TRUE COPY/ P.S.TO.JUDGE sts Dama Seshadri Naidu, J.

JUDGMENT

The petitioners have approached this Court, having lost their substantial source of income, the salary, on retirement, when the respondent University, their employer, kept them on an interminable wait for what is otherwise their legitimate right, the retirement benefits. For one reason or another, the delays, more often than not, occur in the matters of settling the terminal benefits of the superannuated staff, the respondent University being no exception. This case is yet another such example as to illustrate the plight of the retired employees.

2. Briefly stated, the petitioners, as the records reveal, retired from service on attaining the age of superannuation in 2013 from Kerala Agricultural University, their employer. Despite the lapse of more than a year from the date of their retirement, so far, their terminal benefits have not been settled. All their efforts before the authorities bearing no fruit, the WPC3296214 2 petitioners have approached this Court by filing the present writ petition.

3. In response to the submissions of the learned counsel for the petitioners that the delay on the part of the authorities in disbursing the terminal benefits to the petitioners is unjustified, the learned Standing Counsel has stated that the respondent University does not have any intention of holding back any of the terminal benefits of the petitioners, but for the financial crunch inasmuch as the University is dependent on the Government for funds. In other words, the entire contention or defence on the part of the learned Standing Counsel for the University is that owing to lack of funds, the issue cannot be settled.

4. The learned counsel for the petitioners has brought to my notice a judgment of this Court in W.P.(C)No.27285/2013 and batch, disposed of on 20.02.2014, per a learned Single Judge, under identical circumstances. This Court, on that occasion, has observed that it is for the University to find out its own resources for payment of terminal benefits due to the retired employees, WPC3296214 3 and that the University cannot deny payment of retiral benefits to its employees on the pretext of financial stringency. I am in respectful agreement with the said opinion.

5. It is further pertinent to observe that, eventually, the learned Single Judge has issued the following direction in the judgment referred to above, and the same is as follows: "[K]erala University [is] to formulate a priority list of employees retired as on date, to whom payment of terminal benefits are pending due, based on their date of retirement. Eligible amounts due to the persons included in the list shall be paid within a period from 2 months to 6 months from today onwards. Payments after settling claims of each persons shall be made starting from today and all such persons included in the list shall be paid the benefits within an outer [time] limit of 6 months from today." Indeed, in the present instance, the respondents are directed to follow the above procedure and settle the retiral benefits of the petitioners as well.

6. At this juncture, it is further brought to the notice of this Court that despite the time frame fixed in the judgment dated 20.02.2014, so far, the respondent University has not WPC3296214 4 complied with the direction of this Court in that batch of writ petitions. If there is any infraction, it is for the parties aggrieved to take remedial steps in that regard. Be that as it may, this Court, having not been inclined to take a different view, disposes of this writ petition in the same lines as has been done in W.P.(C)No.27285/2013. In this context, it is made clear that if the authorities fail to settle the issue within three months as has been originally provided, the petitioners are entitled to 6% interest on the amounts due after the lapse of initial period of three months. No order as to costs. Dama Seshadri Naidu, Judge tkv