

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE BASANT BALAJI

THURSDAY, THE 11TH DAY OF JANUARY 2024 / 21ST POUSHA, 1945

WP(C) NO. 36176 OF 2023

PETITIONER:

A.BALAKRISHNAN
AGED 66 YEARS
S/O. VELAYUDHA NAIR, RESIDING AT SANGEETHA THULLISSERY
ROAD, WANDOUR (PO) MALAPPURAM, PIN - 679 328.

BY ADVS.
BINDU SREEKUMAR
GOUTHAM SREEKUMAR

RESPONDENTS:

- 1 GENERAL MANAGER
P. P.G DEPARTMENT, S.B.I LOCAL HEAD OFFICE, POOJAPPURA,
TRIVANDRUM, PIN - 695 012.
- 2 ASSISTANT GENERAL MANAGER
S.B.I LOCAL HEAD OFFICE, POOJAPPURA, TRIVANDRUM,
PIN - 695 012.
- 3 BRANCH MANAGER
STATE BANK OF INDIA, COURT ROAD, MANJERI,
PIN - 676 121.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
11.01.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

(Dated this the 11th day of January, 2024)

The petitioner is a physically handicapped person. He joined the State Bank of Travancore as Clerk on 31.07.1980. While working as Clerk-cum-Cashier of State Bank of Travancore, Manjeri Branch, he was terminated from service on 08.07.2002, as a part of disciplinary proceedings after conducting a domestic enquiry. In the domestic enquiry, it was found that the petitioner was guilty of all charges. Thus, Ext.P2 order was passed. A dispute was raised by the petitioner before the Labour Commissioner and the matter was referred to the Labour Court, Kozhikode. The Labour Court, Kozhikode by Ext.P3 award in ID (C) No. 1 of 2004 held as follows:-

"In the result, an award is passed setting aside the action of the management Bank dismissing the worker from service. In lieu there of management is directed to reinstate the worker in service by forfeiting the entire

backwages and seniority by way of punishment within 30 days of pronouncement of award."

2. The respondent Bank challenged the order of the Labour Court before this Court in WP (C) No. 28815 of 2006. By Judgment dated 30.09.2008, the writ petition was disposed of setting aside the order of the Labour Court, which set aside the punishment of dismissal imposed by the management.

3. Though, a writ appeal was filed as Writ Appeal No.536/2009 by the petitioner herein, the same also ended in dismissal. SLP filed against the Judgment as well as RP and Curative Petition are also ended in dismissal. After the dismissal of curative petition as per Ext.P8 on 14.09.2022, the petitioner filed Ext.P9 representation before the 2nd respondent claiming terminal benefits. The 2nd respondent, by Ext.P10 letter dated 03.06.2023 declined the request regarding pension and gratuity and informed that the Provident Fund

Account is under process and will be refunded at the earliest.

4. Hence, this petitioner has approached this Court with the following reliefs:-

- “(i) Issue a writ of certiorari or any other writ or order direction calling for the records leading to Ext.P10 and quash the same.*
- (ii) Issue a writ in the nature of mandamus or any other appropriate writ, order or direction, directing the respondents to grant all terminal benefits like pension, gratuity and leave encashment to the petitioner based on Bank of Baroda Vs. S.K. Kool through LRS and another 2014 (2) SCC 715.*
- (iii) To declare that the petitioner is entitled to get the terminal benefits like pension, gratuity and other leave encashment from the respondent bank based on Bank of Baroda Vs. S.K. Kool through LRS and another 2014 (2) SCC 715.*
- (iv) To direct the respondents to implement the Circular No. CIR/HR and IR/KU/M1/1004 issued by the Indian Banks' Association in Kool case.*
- (v) To issue such other reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case.”*

5. Notice was given to the learned Standing Counsel for the respondent Bank and the learned counsel appeared on 03.11.2023 and sought time for getting instructions. No counter affidavit is filed by the respondents, controverting the allegations as well as the grounds in the writ petition. Therefore, I am taken up the matter and heard the petitioner.

6. The learned counsel for the petitioner has taken me to Ext.P11 judgment of the Apex Court in ***Bank of Baroda v. S.K.Kool and others [2014 (2) SCC 715]*** in Civil Appeal No.10956 of 2013, where in the question of granting terminal benefits to an employee who has been removed from service was the issue. The Apex Court, after considering the Bipartite settlement between the Bank as well as the Bank of Baroda (Employees) Pension Regulations, 1995, held that the employees who are removed from service, are entitled for pensionary benefits, which otherwise they will be eligible

under the Regulation. On the basis of Judgment of the Apex Court, the Indian Bank Association has issued a circular on 30.06.2015 to all the Banks who are parties to Bipartite settlement dated 10.04.2002/ 27.05.2002 to implement the Judgment of the Apex Court mentioned above, by making suitable amendments in Regulation 22 of the Bank Employees' Pension Regulations, 1995 as far as workmen employees are concerned.

7. It is a fact that the petitioner was removed from service as per Ext.P2, which was confirmed by Judgment of this Court in WP (C) No. 28815 of 2006 and also in W.A. No. 536 of 2009. The attempt of the petitioner to challenge the Judgment of Division Bench of this Court in W.A. No. 536 of 2009, before the Apex Court also ended dismissal.

8. The only question to be decided in this case is, whether the petitioner is entitled for terminal benefits since he was removed from

service on disciplinary grounds. It is also a fact that, criminal case was registered against the petitioner and he was convicted by the Chief Judicial Magistrate Court, Manjeri in C.C No.175 of 2001 which in appeal was reversed by the Court of Sessions, Manjeri in Criminal Appeal No. 42 of 2006. The said order was passed on 25.02.2010.

9. So, the short question is whether the petitioner is entitled for terminal benefits till we have Ext.P11 and Ext. P12. When the Apex Court has clearly mentioned in Ext.P11 that even though there is a regulation which state that the employees of Banks, who have been removed from service are not entitled for pensionary benefits. Taking into consideration of Bipartite settlement between the employees of the Banks as well as the Bank, it was held that even if they are removed from service, they are entitled for pensionary benefits.

10. Therefore, in view of the categorical

declaration of law by the Apex Court in Ext.P11, coupled with Ext.P12 circular issued on 30.06.2015, I am of the considered opinion that, the petitioner is also entitled for the same treatment as the petitioner in Ext.P11 judgment of the Apex Court.

Therefore, this writ petition is disposed of quashing Ext.P10 and directing the respondents to quantify the terminal benefits of the petitioner including pension, gratuity and leave encashment as well as the Provident Fund and dispose the same, within a period of three months from the date of receipt of copy of this Judgment.

Sd/-

**BASANT BALAJI
JUDGE**

rpr

APPENDIX OF WP(C) 36176/2023

PETITIONER'S EXHIBITS

Exhibit P1	TRUE COPY OF THE POSTING LETTER DATED 16.7.1980 ISSUED BY THE MANAGER S.B.T.TRIVANDRUM.
Exhibit P2	TYPED COPY OF THE FINAL ORDER OF THE DISCIPLINARY AUTHORITY DATED 08.07.2002.
Exhibit P3	TRUE COPY OF THE AWARD IN ID (C) NO 1/2004 DATED 18.11.2005 PASSED BY THE LABOUR COURT, KOZHIKODE.
Exhibit P4	TRUE COPY OF THE JUDGEMENT IN C.C NO.175/2001 DATED 18.1.2006 PASSED BY THE CHIEF JUDICIAL MAGISTRATE MANJERI.
Exhibit P5	TRUE COPY OF THE JUDGMENT IN WP(C) 28815/2006 DATED 30.09.2008 PASSED BY THE HONOURABLE HIGH COURT OF KERALA.
Exhibit P6	TRUE COPY OF THE JUDGMENT IN W.A. 536/2009 DATED 07.09.2009 PASSED BY THE HONOURABLE HIGH COURT OF KERALA.
Exhibit P7	TRUE COPY OF THE JUDGEMENT OF CRIMINAL APPEAL NO42/2006 DATED 25.02.2010 PASSED BY THE SESSION COURT(AD- HOC) MANJERI.
Exhibit P8	TRUE COPY OF THE ORDER OF CURATIVE PETITION (CIVIL) NO. 130-131/2021 DATED 14.09.2022 PASSED BY THE HONOURABLE SUPREME COURT OF INDIA.
Exhibit P9	TRUE COPY OF REPRESENTATION DATED 19.05.2023 SUBMITTED BY THE WRIT PETITIONER.
Exhibit P10	TRUE COPY OF THE REJECTION LETTER DATED 03.06.2023 ISSUED BY THE 1ST RESPONDENT.
Exhibit P11	TRUE COPY OF THE DECISION IN BANK OF BARODA VS. S.K.KOOL LRS AND ANOTHER DATED 11.12.2013.
Exhibit P12	TRUE COPY OF THE CIRCULAR DATED 30.06.2015 ISSUED BY THE BANK ASSOCIATION.