



2025:KER:14955

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

THURSDAY, THE 20TH DAY OF FEBRUARY 2025 / 1ST PHALGUNA, 1946

WP(C) NO. 35320 OF 2019

PETITIONER:

DEVI PRASAD,
AGED 68 YEARS
MANAGING PARTNER, WAYANAD METALS, PONNADA,
MANIYANCODE P.O., WAYANAD DISTRICT.

BY ADVS.
ASHER REVI JOB
SRI.ANIRUDH KADAVIL
SRI.RENOY VINCENT
SRI.VISHNU JYOTHIS LAL
SRI.E.K.NANDAKUMAR (SR.)

RESPONDENTS:

- 1 P.G.CHACKO,S/O. GEORGE, PULIKKAL HOUSE,
EMILY FAHIMA NAGAR, KALPETTA P.O., WAYANAD
DISTRICT-673121.
- 2 LABOUR COURT,
KANNUR-670002.

BY ADV RESMI NANDANAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20.02.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



JUDGMENT

The petitioner, the Management, has filed the captioned writ petition challenging the finding contained in Ext.P3 passed by the Labour Court, Kannur, in an application filed by the 1st respondent herein under the provisions of Section 33 C (2) of the Industrial Disputes Act.

2. The 1st respondent herein is stated to have been terminated from the service of the petitioner and when an industrial dispute was raised by him, the same was decided in his favor, directing him to be reinstated with 50% back wages. The award issued as above was challenged by the Management and pursuant to the judgment of this Court in O.P.No. 4975 of 1997, it is stated that the matter was remanded back for consideration to the Management-the petitioner herein. However, the 1st respondent filed W.A.No. 1174 of 2001 and a Division Bench of this Court has set aside the directions issued by the learned Single judge as above, directing the reinstatement of the 1st respondent alone, however without any back-wages. The afore judgment, directed the 1st respondent to be reinstated from 01.01.2002.



3. The dispute raises thereafter. The 1st respondent herein filed the claim under 33 C (2) of the Industrial Disputes Act, pointing out that he was not reinstated and in that circumstances, he was required to be paid the wages for the period when he was kept out of service. The Labour Court, Kannur, by Ext.P3 order, allowed the application directing the petitioner herein to pay Rs.2,28,343/- (Rupees Two lakhs twenty eight thousand three hundred and forty three only) to the 1st respondent herein along with 12% interest from 13.08.2012.

4. It is the afore order at Ext.P3 that is challenged by the petitioner in the captioned writ petition.

5. I have heard Sri.Nandakumar, the learned senior counsel for the petitioner and Smt.Resmi Nandan, the learned counsel for the 1st respondent herein.

6. The short issue arising for consideration in this writ petition is as regards the sustainability or otherwise of the finding contained in Ext.P3 order issued by the Labour Court, Kannur.

7. There is no dispute up to the judgment of this Court in W.A.No. 1174 of 2001, as already noticed. The 1st respondent has presented the claim under 33 C (2) essentially contending that, he was not reinstated thereafter. However, a perusal of



Ext.P3 shows that apart from the oral contention raised by the 1st respondent that he was not reinstated, there is no evidence forthcoming to the effect that the 1st respondent had sought for any reinstatement on the basis of the directions contained in the judgment of the Division Bench in W.A.No. 1174 of 2001. It is only in a situation where such a claim for reinstatement is made and denied, the question of filing an application thereafter under the provisions of Section 33 C (2) for the quantified back wages arises. I also take note of the contentions raised by the petitioner that in fact the 1st respondent herein reported for duty pursuant to the directions of the Division Bench only on 24.05.2004. This Court has already taken the view that even if there is an order directing reinstatement passed by a competent Labour Court, the employee has to report for duty and seek reemployment within a reasonable period of time, and held that if such request for re-employment is not lodged within a reasonable period of time, the question of thereafter claiming back wages etc. in a claim under Section 33 C (2) does not arise.

8. In such circumstances, I am of the opinion that the findings contained in Ext.P3 cannot be sustained.



9. However, I take note of the fact that the 1st respondent herein was admittedly working with the petitioner at least till the date he was terminated. He was essentially a daily wage worker and in such circumstances, I am of the opinion that it is for the Management – the petitioner herein to compensate the 1st respondent, at least taking note of the fact, that he was working till the termination as noticed above.

10. In such circumstances, though the 1st respondent is not legally entitled to entertain a claim under Section 33 C (2), I am of the opinion that it would be in the interest of both the parties that the petitioner pays an amount of Rs.1,50,000/- to the 1st respondent herein, within a period of four weeks from today.

11. In such circumstances, while allowing this writ petition, setting aside Ext.P3, I direct the petitioner to remit an amount of Rs.1,50,000/- to the 1st respondent herein, within a period of four weeks from today.

Accordingly, this writ petition is disposed of.

Sd/-
HARISANKAR V. MENON
JUDGE

ANS

**APPENDIX OF WP(C) 35320/2019****PETITIONER EXHIBITS**

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| EXHIBIT P1 | TRUE COPY OF THE JUDGMENT DATED 18/12/2001 IN WA NO.1174/2001. |
| EXHIBIT P2 | TRUE COPY OF THE COUNTER STATEMENT DATED 08/06/2007 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT. |
| EXHIBIT P3 | TRUE COPY OF THE ORDER IN CP NO.60/2012 DATED 08/11/2018. |
| EXHIBIT P4 | TRUE COPY OF THE JUDGMENT DATED 17TH OCTOBER 2005 OF THE HON'BLE HIGH COURT IN THE CONTEMPT CASE(C) NO 399/2004 |
| EXHIBIT P5 | TRUE COPY OF THE CLAIM PETITION NO. 55/2006 FILED BY THE PETITIONER. |
| EXHIBIT P6 | TRUE COPY OF THE PETITION BY THE PETITIONER BEFORE THE HUMAN RIGHTS COMMISSION DATED 25.07.2007 ALONG WITH THE ENGLISH TRANSLATION. |
| EXHIBIT P7 | TRUE COPY OF THE COMPLAINT FILED BY THE DISTRICT LABOUR OFFICER, WAYANAD DATED 03.11.2004 ALONG WITH ENGLISH TRANSLATION. |
| EXHIBIT P8 | TRUE COPY OF THE REPLY BY THE DISTRICT LABOUR OFFICER, WAYANAD DATED 24.08.2006 ALONG WITH THE ENGLISH TRANSLATION. |
| EXHIBIT P9 | TRUE COPY OF THE REGISTER OF WAGES FOR THE PERIOD FROM 1.06.2004 TO 30.06.2004. |
| EXHIBIT P10 | TRUE COPY OF THE REGISTER OF WAGES FOR THE PERIOD FROM 1.07.2004 TO 31.07.2004. |
| EXHIBIT P11 | TRUE COPY OF THE REGISTER OF WAGES FOR THE PERIOD FROM 1.08.2004 TO 31.08.2004. |



EXHIBIT P12 **TRUE COPY OF THE WAGES SLIPS FOR THE PERIOD FROM 1.06.2004 TO 30.06.2004.**

**EXHIBIT P13 TRUE COPY OF THE WAGES SLIPS FOR THE
PERIOD FROM 1.08.2004 TO 30.08.2004.**

EXHIBIT P14 TRUE COPY OF THE WAGE SLIP OF V.M BABU
FOR THE PERIOD FROM 1.07.2004 TO
31.07.2004.

**EXHIBIT P15 TRUE COPY OF THE MUSTER ROLL FOR THE
PERIOD FROM 1.06.2004 TO 30.06.2004.**

**EXHIBIT P16 TRUE COPY OF THE MUSTER ROLL FOR THE
PERIOD FORM APRIL 1993 TO OCTOBER 1994.**

EXHIBIT P17 TRUE COPY OF REGISTERED LETTER DATED
12.06.2003 BY THE MANAGEMENT TO SRI
P.G.CHACKO ALONG WITH THE ACKNOWLEDGMENT
CARD ALONG WITH THE ENGLISH TRANSLATION.

**EXHIBIT P18 TRUE COPY OF THE MEMO FILED BY P.G CHACKO
IN O.P 4975/97 BEFORE THE HON'BLE HIGH
COURT OF KERALA.**

RESPONDENT EXHIBITS

**EXHIBIT R1 TRUE COPY OF NOTICE DATED 22.05.2003
ISSUED BY THE 1ST RESPONDENT**

EXHIBIT R2 ENGLISH TRANSLATION OF EXT. R1