

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

WP(C).No. 16032 of 2007(H)

PETITIONER:

**S. PADMAKUMARI AMMA,
RETD. SUB REGISTRAR, 'BINDU BHAVANAM',
KOTTAKKERAM, PARIPPALLY P.O., KOLLAM.**

BY ADV. SMT.P.V.ASHA

RESPONDENTS:

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
DEPARTMENT OF TAXES, GOVERNMENT SECRETARIT,
THIRUVANANTHAPURAM.**
- 2. INSPECTOR GENERAL OF REGISTRATION,
THIRUVANANTHAPURAM.**
- 3. DISTRICT REGISTRAR (GENERAL),
THIRUVANANTHAPURAM.**
- 4. ACCOUNTANT GENERAL (A & E), KERALA,
THIRUVANANTHAPURAM.**
- 5. SUB TREASURY OFFICER,
ATTINGAL, THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SMT. SUDHADEVI

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 31/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

KSS

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF THE GRATUITY PAYMENT ORDER DTD. 4/06/04.
- EXT.P1A: COPY OF THE GRATUITY PAYMENT ORDER DTD. 20/10/04.
- EXT.P1B: COPY OF THE GRATUITY PAYMENT ORDER DTD.20/10/04.
- EXT.P1C: COPY OF THE GRATUITY PAYMENT ORDER DTD. 20/10/04.
- EXT.P1D: COPY OF THE GRATUITY PAYMENT ORDER DTD. 8/05/06.
- EXT.P1E: COPY OF THE GRATUITY PAYMENT ORDER DTD. 22/11/06.
- EXT.P2: COPY OF THE LETTER NO.E3.212/04 DTD. 6/10/06 OF 3RD RESPONDENT.
- EXT.P3: COPY OF THE EXPLANATION SUBMITTED BY PETITIONER ON 28/10/06.
- EXT.P3A: COPY OF THE EXPLANATION SUBMITTED BY PETITIONER ON 28/10/06 ALONG WITH LETTER NO.3745/23/95/T.D. DTD. 18/08/95 OF GOVT.
- EXT.P4: COPY OF EXPLANATION TO LOCAL AUDIT REPORT FOR 2001-02 OF SUB REGISTRY, NAVAIKULAM.
- EXT.P5: COPY OF THE LETTER DTD. 20/01/07 ALONG WITH THE LIABILITY CERTIFICATE ISSUED TO PETITIONER.
- EXT.P6: COPY OF THE LETTER DTD. 15/02/07 OF 3RD RESPONDENT.
- EXT.P7: COPY OF THE EXPLANATION DTD. NIL TO THE AUDIT REPORT FOR THE YEAR 2002-03 OF SUB REGISTRY, CHIRAYANKEEZH.
- EXT.P8: COPY OF THE LETTER NO.E3.212/04 DTD. 24/03/07 OF 3RD RESPONDENT, ALONG WITH LIABILITY CERTIFICATE.
- EXT.P9: COPY OF THE LETTER NO.C.NO.20/27 DTD. 20/04/07 OF SUB REGISTRAR, CHIRAYINKIZH.

/TRUE COPY/

P.A.TO JUDGE

Kss

V. GIRI ,J.

WP(C).NO.16032 of 2007

Dated this the 31st day of October, 2007

JUDGMENT

The petitioner retired from service as a Sub Registrar on 31.3.2004. The liability incurred by the petitioner was not fixed prior to the date of retirement or within three years from the date of the retirement. By Ext.P8, copy of a settlement of liability sent by the District Registrar (General) to the Treasury Officer on 24.3.2007 was given to the petitioner. In the counter affidavit filed by the respondents, Ext.P8 is described as provisional certificate of liability and the petitioner had, apparently, filed objections to the same only two months thereafter. It is clear from the counter affidavit that no liability as such was fixed as against the petitioner within the period of three years from the date on which she became a pensioner. In such circumstances, it is not open to the respondents to adjust any liability against DCRG.

2. In the circumstances, the writ petition is disposed of directing the second respondent to take appropriate steps to see that the DCRG due and admissible to the petitioner is disbursed within a period of one month from the date of receipt of a copy of the judgment. But it is made clear that this order will be without prejudice to the right of the respondents to recover any loss that

may have been caused by the petitioner or take appropriate steps for recovering any amount, if any liability is fixed against the petitioner, in accordance with law.

3. It is disturbing that no steps were taken to determine the liability of a government servant till a week prior to the date on which the three years time frame, fixed under Rule 3 of Part III of KS&SSR, was to expire. Obviously, some of the officials would have been responsible for this. The second respondent shall take appropriate steps to enquire and ascertain who was responsible for the delay in forwarding a provisional liability certificate of the petitioner, and non-fixation of the liability, within a period of three years from the date on which the petitioner became a pensioner. Appropriate follow up action shall also be taken in this regard.

V. GIRI, JUDGE

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