

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR  
&  
THE HONOURABLE MR. JUSTICE P.BHAVADASAN**

**WEDNESDAY, THE 30TH SEPTEMBER 2009 / 8TH ASWINA 1931**

**WA.No. 2566 of 2005()**

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AGAINST THE JUDGEMENT IN OP.7534/1996 Dated 24/06/2005  
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**APPELLANTS/ RESPONDENTS:**

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- 1. THE STATE OF KERALA,  
REP. BY ITS SECRETARY (HIGHER EDUCATION),  
GOVERNMENT OF KERALA, HIGHER EDUCATION DEPARTMENT,  
SECRETARIAT, THIRUVANANTHAPURAM.**
  - 2. THE ACCOUNTANT GENERAL OF KERALA,  
THIRUVANANTHAPURAM.**
  - 3. THE DIRECTOR OF PUBLIC INSTRUCTIONS,  
THIRUVANANTHAPURAM.**

**BY GOVERNMENT PLEADER, SMT.R.BINDU**

**RESPONDENT/ PETITIONER;**

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**N.M. JACOB,  
RETD. HEAD MASTER, NADAVAILIL, THAZHAKARA,  
MAVELIKKARA.**

**ADV. SRI.WILSON JOHN  
SRI.A.SHAFEEK (KAYAMKULAM) FOR R1**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 30/09/2009,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**K. BALAKRISHNAN NAIR & P.BHAVADASAN, JJ.**

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**W.A. No.2566 OF 2005**  
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**Dated this the 30<sup>th</sup> day of September, 2009**

**J U D G M E N T**

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Balakrishnan Nair, J.

The respondents in the Original Petition are the appellants. The respondent herein was the petitioner.

2. The brief facts of the case are the following:

The 1<sup>st</sup> respondent retired from service on 31.3.1982. An amount of Rs.18,114/- was payable to him as D.C.R.G. There was a liability of Rs.1,521/-, which was fixed against him within three years of his retirement. Alleging that the DCRG due to him was not so far released, the Original Petition was filed in 1996. Pursuant to an interim order of this Court in the said Original Petition, the D.C.R.G. was released on 19.8.1996. When the Original Petition finally came up for hearing, the learned Single Judge disposed of the same by directing payment of 8% interest from 1.4.1982 to 19.8.1996 for the D.C.R.G. amount payable to him after deducting the liability. Feeling aggrieved by the said direction, this Writ Appeal is preferred.

3. According to the appellants, the delay in payment of the amount was occasioned by the non-co-operation of the 1<sup>st</sup> respondent/writ petitioner. Therefore, he is not entitled to get interest. We think, it is difficult to accept the said contention. By going to the nearby treasury if he could have collected the D.C.R.G., he would not have chosen to approach this Court and file the Original Petition against the respondents claiming payment of D.C.R.G. If the payment was readily available, no man in his senses will follow such a cause of action. So, we are not impressed by the contention of the appellants that delay was caused owing to the non-co-operation of the respondent/writ petitioner.

In the result, the Writ Appeal fails and it is dismissed.

**(K.BALAKRISHNAN NAIR, JUDGE)**

**(P.BHAVADASAN, JUDGE)**

**ps**