

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

THURSDAY, THE 14<sup>TH</sup> DAY OF JULY 2022 / 23rd ASHADHA, 1944

WA NO. 758 OF 2022

AGAINST THE JUDGMENT IN WP(C) 18946/2020 OF HIGH COURT OF  
KERALA

**APPELLANT/PETITIONER:**

THE KERALA STATE CO-OPERATIVE BANK LTD.  
CO-BANK TOWERS,  
PALAYAM, THIRUVANANTHAPURAM, PIN-695 033,  
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER  
(FORMER MANAGING DIRECTOR).

BY ADVS.  
GILBERT GEORGE CORREYA  
MOHAN IDICULLA ABRAHAM  
RACHEL JOSEPH  
MARTIN D.ALUMKARA  
NIKHITHA T.S.

**RESPONDENTS/WRIT PETITIONERS:**

1 S.VISWANATHAMALLAN  
57/B, KUNDELATTU HOUSE,  
S.L.PURAM.P.O, CHERTHALA,  
PIN-688523, ALAPUZHA DISTRICT.

2 M.C.BALAJI,  
KAILAS, KANJAVELY.P.O, KOLLAM,  
PIN-691602, KOLLAM DISTRICT.

BY ADVS.  
MOHAN IDICULLA ABRAHAM  
NIKHITHA T.S.  
RACHEL JOSEPH  
MARTIN D.ALUMKARA

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
07.07.2022, ALONG WITH WA.792/2022, 743/2022 AND CONNECTED  
CASES, THE COURT ON 14.07.2022 DELIVERED THE FOLLOWING:

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

**PRESENT**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**&**

**THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.**

**THURSDAY, THE 14<sup>TH</sup> DAY OF JULY 2022 / 23rd ASHADHA, 1944**

**WA NO. 792 OF 2022**

**AGAINST THE JUDGMENT IN WP(C) 26894/2018 OF HIGH COURT OF**

**KERALA**

**APPELLANTS/RESPONDENTS:**

- 1 THE KERALA STATE CO-OPERATIVE BANK LTD.,,  
CO-BANK TOWERS, PALAYAM,  
THIRUVANANTHAPURAM, PIN-695 033.  
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER  
(FORMER MANAGING DIRECTOR).

BY ADV GILBERT GEORGE CORREYA

**RESPONDENTS/WRIT PETITIONERS:**

- 1 SIVAN NAIR S.,  
USHUS, HOUSE NUMBER A 22, TC 9/950 (I), PANICKER'S  
LANE, SASTHAMANGALAM P.O., PIN-695 010,  
THIRUVANANTHAPURAM DISTRICT.
- 2 REGHUNATHAN S.,  
SARASWATHY MANDIRAM, VALIYAVILA,  
THIRUMALA P.O., PIN-695 006,  
THIRUVANANTHAPURAM DISTRICT.
- 3 SYAMALA KUMARI B.,  
MOHANAM, TC 9/2507 (2), JUDGE LANE,  
SASTHAMANGALAM P.O., PIN-695 010,  
THIRUVANANTHAPURAM DISTRICT.
- 4 B.SALILAN,  
MARANGATTU HOUSE, GOVINDAMKUTTOM P.O.,  
KAYAMKULAM, PIN-690 527,

:3:

W A Nos.803, 743, 751, 758, 759 & 792 of 2022

ALAPPUZHA DISTRICT.

BY ADVS.  
MOHAN IDICULLA ABRAHAM  
MARTIN D.ALUMKARA  
RACHEL JOSEPH

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
07.07.2022, ALONG WITH WA.758/2022 AND CONNECTED CASES, THE  
COURT ON 14.07.2022 DELIVERED THE FOLLOWING:

:4:  
W A Nos.803, 743, 751, 758, 759 & 792 of 2022

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

**PRESENT**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**&**

**THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.**

**THURSDAY, THE 14<sup>TH</sup> DAY OF JULY 2022 / 23rd ASHADHA, 1944**

**WA NO. 743 OF 2022**

**AGAINST THE JUDGMENT IN WP(C) 6699/2021 OF HIGH COURT OF  
KERALA**

**APPELLANT/RESPONDENT:**

KERALA STATE CO-OPERATIVE BANK LTD.,  
CO-BANK TOWERS, PALAYAM,  
THIRUVANANTHAPURAM, PIN 695 033,  
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER,  
(FORMER MANAGING DIRECTOR).  
BY ADV GILBERT GEORGE CORREYA

**RESPONDENT/WRIT PETITIONER:**

PRADEEP KUMAR,  
AGED 66 YEARS  
S/O. MADHAVAN, LEKSHMI PRABHA,  
TC 11/1706, PAROTTUKONAM,  
NALANCHIRA P.O, PIN 695 015,  
THIRUVANANTHAPURAM DISTRICT.  
BY ADVS.  
MOHAN IDICULLA ABRAHAM  
RACHEL JOSEPH  
MARTIN D.ALUMKARA  
JEEVAN J. MATHEW  
NIKHITHA T.S.  
SHYAMILIPRIYA P.P.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
07.07.2022, ALONG WITH WA.758/2022 AND CONNECTED CASES, THE  
COURT ON 14.07.2022 DELIVERED THE FOLLOWING:

:5:  
W A Nos.803, 743, 751, 758, 759 & 792 of 2022

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

**PRESENT**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**&**

**THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.**

**THURSDAY, THE 14<sup>TH</sup> DAY OF JULY 2022 / 23rd ASHADHA, 1944**

**WA NO. 759 OF 2022**

**AGAINST THE JUDGMENT IN WP(C) 27920/2019 OF HIGH COURT OF**

**KERALA**

**APPELLANT/RESPONDENT:**

KERALA STATE CO-OPERATIVE BANK LTD.,  
CO-BANK TOWERS, PALAYAM,  
THIRUVANANTHAPURAM, PIN-695 033,  
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICE  
(FORMER MANAGING DIRECTOR  
BY ADV GILBERT GEORGE CORREYA

**RESPONDENTS/WRIT PETITIONERS:**

- 1 RICHU HANNAH JOY,  
D/O LATE LEELAMMA K,  
CHAKKAMPUZHA HOUSE, A  
NICKAD WEST P.O., KOTTAYAM DISTRICT, PIN-686503.
- 2 RON SAM JOY,  
S/O LATE LEELAMMA .K.,  
CHAKKAMPUZHA HOUSE,  
ANICKAD WEST PO, KOTTAYAM-686 503.  
BY ADVS.  
MOHAN IDICULLA ABRAHAM  
NIKHITHA T.S.  
RACHEL JOSEPH  
MARTIN D.ALUMKARA  
SHYAMILIPRIYA P.P.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 07.07.2022,  
ALONG WITH WA.758/2022 AND CONNECTED CASES, THE COURT ON  
14.07.2022 DELIVERED THE FOLLOWING:

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

**PRESENT**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**&**

**THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.**

**THURSDAY, THE 14<sup>TH</sup> DAY OF JULY 2022 / 23rd ASHADHA, 1944**

**WA NO. 751 OF 2022**

**AGAINST THE JUDGMENT IN WP(C) 8478/2018 OF HIGH COURT OF**

**KERALA**

**APPELLANT/RESPONDENT:**

THE KERALA STATE CO-OPERATIVE BANK LTD.  
CO-BANK TOWERS, PALAYAM,  
THIRUVANANTHAPURAM, PIN-695 033,  
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER  
(FORMER MANAGING DIRECTOR).  
BY ADV GILBERT GEORGE CORREYA

**RESPONDENTS:**

- 1 B GOPALAKRISHNAN NAIR  
ALUVILAKOM HOUSE, SREELEKSHMI,  
VEMBAYAM P.O., PALAMOODU, PIN - 695 615.
- 2 D.REMADEVI KARTHIKA,  
T.C.3/651(2), CHAITHANYA GARDENS,  
MUTTADA P.O., PIN - 695 025,  
THIRUVANANTHAPURAM DISTRICT.
- 3 O. LETHAKUMARI UTHRADAM,  
VRA 103 A, PEROORKADA P.O.,  
MANNAMMOOLA, PIN- 695 005,  
THIRUVANANTHAPURAM DISTRICT.
- 4 P.G. PREMACHANDRAN  
MOOZHIYIL VEEDU,  
NEAR GOVERNMENT COLLEGE, NEDUMANGAD P.O.,  
NEDUMANGAD, PIN - 695 541,  
THIRUVANANTHAPURAM DISTRICT.
- 5 M.V. CHANDRIKA  
CHANDRAKANTHAM, VAIKAPRAYAR P.O.,  
VAIKOM, PIN - 686 146, KOTTAYAM DISTRICT.

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W A Nos.803, 743, 751, 758, 759 & 792 of 2022

- 6 C. RAJASEKHARAN NAIR  
HOUSE NO.19, TC 41/1586 A,  
SREENAGAR, MANACAUD P.O., PIN - 695 009,  
THIRUVANANTHAPURAM DISTRICT.
- 7 K.S. VIJAYAKUMAR  
RADHA NIVAS, TC 11/920, DEVASWOM LANE,  
PATTOM P.O., KESAVADASAPURAM, PIN - 695 004,  
THIRUVANANTHAPURAM DISTRICT.
- 8 M.K. SUBHAGAKUMAR  
MAKAYIRAM, PATTANACADU P.O.,  
CHERTHALA, PIN - 688 531, ALAPPUZHA DISTRICT.
- 9 P.GANESAN  
TC23/571, GANESH BHAVAN, VALAYASALAI,  
CHALAI P.O., PIN- 695 036,  
THIRUVANANTHAPURAM DISTRICT.
- 10 P. VASANTHAKUMARI  
KARAKATTU VILA VEEDU, VENGANOR P.O.,  
NEELAKESI ROAD, PIN-695 523,  
THIRUVANANTHAPURAM DISTRICT.
- 11 S.UMAYAMMA MURALIKA,  
TC 5/424 (1) SNRA 1, INDIRA NAGAR,  
PEROORKADA P.O., PIN - 695 005,  
THIRUVANANTHAPURAM DISTRICT.
- 12 P.L. MARY  
HOUSE NO.27, MINI NAGAR,  
NETTISSERY P.O., MUKKATTUKARA,  
PIN - 680 651, THRISSUR DISTRICT.
- 13 C.V. AMBIKA  
C-6/12/2-3, SECTOR 6, CBD BELAPUR,  
RLAD BELAPUR P.O., NAVI MUMBAI,  
PIN- 400 614, MAHARASHTRA STATE.
- 14 PREMKUMAR D  
PRABIN COTTAGE, EZAKONAM,  
VATTAVILA P.O., PIN - 695 132,  
THIRUVANANTHAPURAM DISTRICT.  
BY ADVS.  
MOHAN IDICULLA ABRAHAM  
MARTIN D.ALUMKARA  
RACHEL JOSEPH

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
07.07.2022, ALONG WITH WA.758/2022 AND CONNECTED CASES, THE  
COURT ON 14.07.2022 DELIVERED THE FOLLOWING:

:8:  
W A Nos.803, 743, 751, 758, 759 & 792 of 2022

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

**PRESENT**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**&**

**THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.**

**THURSDAY, THE 14<sup>TH</sup> DAY OF JULY 2022 / 23rd ASHADHA, 1944**

**WA NO. 803 OF 2022**

**AGAINST THE JUDGMENT IN WP(C) 6611/2018 OF HIGH COURT OF**

**KERALA**

**APPELLANT/RESPONDENT:**

THE KERALA STATE CO-OPERATIVE BANK LTD.  
CO-BANK TOWERS, PALAYAM,  
THIRUVANANTHAPURAM, PIN-695 033,  
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER  
(FORMER MANAGING DIRECTOR).  
BY ADV GILBERT GEORGE CORREYA

**RESPONDENTS/WRIT PETITIONERS:**

- 1 ARAVINDAKSHAN PILLAI. R  
SOUPARNIKA, RAMANKULANGARA NAGAR - 105,  
KAVANADU P.O., KOLLAM, PIN - 691 003,  
KOLLAM DISTRICT.
- 2 B.UNNIKRISHNAN,  
TC 2/1522(6), GRA 428, GOWREESAPATTOM,  
PATTOM P.O., PIN - 695 004,  
THIRUVANANTHAPURAM DISTRICT.
- 3 PRASANNAKUMAR R.,  
KUTHIRAPANATHI, MAMATHA 109 A,  
VARAMBELKADA, MARUTHADI,  
KAVANADU P.O., PIN - 691 003,  
KOLLAM DISTRICT.
- 4 R.SUDARSANAN USHUS,  
TC 25/1867, MELTRA C-14,  
MELE THAMPANNOOR, THIRUVANANTHAPURAM G.P.O.,  
PIN - 695 001, THIRUVANANTHAPURAM DISTRICT.
- 5 VALSALAN P. ,  
PUSHPAGIRI HOUSE,



- DARSAN NAGAR-627, PEROORKADA P.O.,  
PIN - 695 005, THIRUVANANTHAPURAM DISTRICT.
- 6 MOHAN DAS R.,  
KUZHINKALA HOUSE, NANDAIVANAM,  
ALIMCODE VIA, NEDUMPARAMBU P.O., PIN - 695 102,  
THIRUVANANTHAPURAM DISTRICT.
- 7 HEMALAL H.,  
ROHINI, TC 08/0674/ERA-131,  
SREEKARIYAM P.O.,  
ELAMKULAM, PIN - 695 017,  
THIRUVANANTHAPURAM DISTRICT.
- 8 S. MOHANAKUMAR  
KARTHIKA, TC 13/369(6), MRA 128(1),  
MOOLAVILAKAM (KAIRALI LANE),  
VANCHIYOOR P.O., PIN - 695 035,  
THIRUVANANTHAPURAM DISTRICT.
- 9 P. JAYAKUMARAN NAIR  
KRISHNA, TC 25/555(3),  
MOSQUE LANE, THAMPANOR, PIN - 695 001,  
THIRUVANANTHAPURAM DISTRICT.
- 10 L. VIJAYALEKSHMI, PARACKAL,  
TC 9/737-3, C-16, R.N.P. LANE,  
SASTHAMANGALAM P.O.,  
VELLAYAMBALAM, PIN - 695 010,  
THIRUVANANTHAPURAM DISTRICT.
- 11 ALEYKUTTY P.I.  
TC 76/457, NARICAUD HOUSE,  
ANAYARA P.O., PIN - 695 029,  
THIRUVANANTHAPURAM DISTRICT.
- 12 SUCHETHA N.,  
NIRMALYAM TC 13/160 (1),  
NALUMUKKU, PETAH P.O., PIN - 695 024,  
THIRUVANANTHAPURAM DISTRICT.
- 13 RAMACHANDRAN T.R.  
VASANTHAM, SRA 186H, ELIPPODE,  
VATTIYOORKAVU P.O., PIN - 695 013,  
THIRUVANANTHAPURAM DISTRICT.
- 14 ARUNA VARKEY  
CHERUVATHOOR, VRA A20,  
WOMENS' COLLEGE LANE-A,  
VAZHUTHACAUD, PIN - 695 014,  
THIRUVANANTHAPURAM DISTRICT.
- 15 GIRIJA KUMARI K.,  
SOORYAPRABHA, TC 50/678(1),  
KSRA-A17, KALADY, KARAMANA P.O., PIN - 695 002,  
THIRUVANANTHAPURAM DISTRICT.

- 16 K. KESAVARAJU  
KESAVAMANGALAM, LEKSHMI NAGAR,  
OORUTTUKALA, NEYYATTINKARA P.O., PIN - 695 121,  
THIRUVANANTHAPURAM DISTRICT.
- 17 K. KRISHNARU  
INDEEVARAM, KOLLOORMADOM,  
KANNAMMOOLA, MEDICAL COLLEGE.P.O., PIN - 695 011,  
THIRUVANANTHAPURAM DISTRICT.
- 18 PRAKASAN M.K. ,  
UTHRADOM, TC 41/2517,  
ARA 100, THOTTAM,  
MANACAUD P.O., PIN - 695 009,  
THIRUVANANTHAPURAM DISTRICT.
- 19 JOSE K.V.  
D-50, KOTTAKATTU HOUSE, GANGA NAGAR,  
KUDAPPANAKKUNNU P.O., PIN 695 043,  
THIRUVANANTHAPURAM DISTRICT.
- 20 A. HARIKUMAR  
KARUNA, TC 5/2066-1, PNRA-F-14,  
SREEKRISHNA LANE,  
KOWDIAR P.O., PIN - 695 003,  
THIRUVANANTHAPURAM DISTRICT.
- 21 Y.G. VARGHESE  
PALAKKOTTU, BSNRA C-36, KOTTAMUGAL,  
NALANCHIRA, KIZHAKKETHERUV P.O., PIN - 691 531,  
THIRUVANANTHAPURAM DISTRICT.
- 22 JOSE MATHEW  
THOTTAPRANKAL HOUSE,  
SHANTHI NAGAR, SREEKARYAM P.O., PIN - 695 017,  
THIRUVANANTHAPURAM DISTRICT.
- 23 SREEKUMAR V.  
TC 9/1933-2, P 61, KARTHIKA,  
KOCHAR ROAD, SASTHAMANGALAM P.O.,  
PIN - 695 010, THIRUVANANTHAPURAM DISTRICT.
- 24 N. JAYAKUMARAN NAIR  
TC 94/2912, PRA 86, GOKULAM,  
PETTAH P.O., PIN - 695 024,  
THIRUVANANTHAPURAM DISTRICT.
- 25 S. OMANA AMMA  
KAITHAVILAKOM (AKNRA, B1),  
CHOOTTAYIL, KILIMANOR P.O., PIN - 695 601,  
THIRUVANANTHAPURAM DISTRICT.
- 26 K. MOHANAKUMAR  
TC 4/1315/2, ROHINI, SREVILAS LANE,  
G-27, KOWDIAR P.O., PIN - 695 003,  
THIRUVANANTHAPURAM DISTRICT.

- 27 V.G. RAJAN,  
MANASI, PRA NO.170,  
THEKKEVILA P.O., PIN - 691 016,  
KOLLAM DISTRICT.
- 28 G. VISWANATHAN  
POTTAVILAYIL, OPPO.KAL,  
ARALUMMOODU P.O., PIN - 695 123,  
THIRUVANANTHAPURAM DISTRICT.
- 29 N. RAJENDRA PRASAD  
CHOTHY, MUNDUPARA JUNCTION,  
ANAKOTTOOR P.O., KOTTARAKKARA, PIN - 691 505,  
KOLLAM DISTRICT.
- 30 M. SREEKANTAN NAIR  
MANGALASSERY VEEDU, KOLINCHI,  
KANJIRAMPARA, VAMANAPURAM VIA,  
ANAKUDY P.O., PIN - 695 015,  
THIRUVANANTHAPURAM DISTRICT.
- 31 C. RAJESWARI  
TC 6/1270 (1), RAJEEVAM, MRA A28,  
MARUTHANKUZHY, KANJIRAMPARA P.O., PIN - 695 030,  
THIRUVANANTHAPURAM DISTRICT.
- 32 L. KAMALAMMAL  
TC NO.50/1031(2), SREERAGAM,  
SKRA NO.9, SREEKRISHNA NAGAR,  
THALIYAL, KARAMANA P.O., PIN - 695 002,  
THIRUVANANTHAPURAM DISTRICT.
- 33 HARIDAS G.K.  
KAILAS, TC 1/6(2), UARRA 30A,  
ULLOOR AKKULAM ROAD,  
MEDICAL COLLEGE P.O., PIN -695 011,  
THIRUVANANTHAPURAM DISTRICT.
- 34 PRABHA P.,  
KN 413, KRISHNA NAGAR, AZHANKAL,  
KARUMOM P.O., PIN - 695 002,  
THIRUVANANTHAPURAM DISTRICT.
- 35 TOMY JOSEPH  
ELAYIDATH COMPOUND,  
117-KAUMUDI NAGAR,  
PALLITHOTTAM P.O., PIN - 691 006,  
KOLLAM DISTRICT.
- 36 LILLY GEORGE  
ASWATHI BHAVAN, 384/A,  
KAZHAKOOTTAM P.O., PIN - 695 582,  
THIRUVANANTHAPURAM DISTRICT.
- 37 GEORGE A.I.  
ANDOORKALAYIL, PERUMPAIKADU P.O., PIN - 686 016,

- KOTTAYAM DISTRICT.
- 38 VISWAKUMAR P.,  
AVITTAM, CHITTIYOORCODE,  
MALAYINKIL P.O., PIN - 695 571,  
THIRUVANANTHAPURAM DISTRICT.
- 39 ACHUTHAN P.,  
S/O. A.P. KANNAN NAIR,  
SREEPADAM, VEETTIKUTH,  
NILAMBUR P.O., PIN - 679 329,  
MALAPPURAM DISTRICT.
- 40 MOHANADASAN P. ,  
S/O. KANNANKUTTY NAIR,  
SHREYAS, THOVVUR P.O., PIN - 679327,  
MALAPPURAM DISTRICT.
- 41 KUNHIRAMAN K.,  
S/O. KANNAN, USHUS KANDAN HOUSE,  
KANNAPILAVU, NANICHERY P.O.,  
PIN - 670 563, KANNUR DISTRICT.
- 42 MURALIDHARAN P.,  
S/O. C.BALAKRISHNAN NAIR,  
KRISHNAKRIPA, 33/477 A. MALAPARAMBA P.O.,  
PIN - 673 009, KOZHIKODE DISTRICT.
- 43 SAKUNTHALA K.,  
D/O KRISHNAN NAIR AND W/O. GANGADHARAN,  
SAKETHAM, WEST MAMPETTA,  
MANASSERY P.O., PIN - 673 602,  
KOZHIKODE DISTRICT.
- 44 VASU K.,  
S/O. KANDAN, PARUTHIANCHETTEL HOUSE,  
MANIPPURAM P.O., KODUVALLY, PIN - 673 572,  
KOZHIKODE DISTRICT.
- 45 A. SREEKANTAN NAIR,  
SAI KRIPA, SRI CHITHRA NAGAR - A79,  
TC NO.39/535, PANGODE,  
THIRUMALA P.O., PIN - 695 006,  
THIRUVANANTHAPURAM DISTRICT.
- BY ADVS.  
MOHAN IDICULLA ABRAHAM  
MARTIN D.ALUMKARA  
RACHEL JOSEPH

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 07.07.2022,  
ALONG WITH WA.758/2022 AND CONNECTED CASES, THE COURT ON 14.07.2022  
DELIVERED THE FOLLOWING:

**“C.R.”**

**A.K.JAYASANKARAN NAMBIAR & MOHAMMED NIAS C.P., JJ**

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W A Nos.803, 743, 751, 758, 759 & 792 of 2022  
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Dated this the 14<sup>th</sup> day of July, 2022

**JUDGMENT**

Mohammed Nias.C.P. J.

The Kerala State Co-operative Bank Ltd., the respondent in the writ petitions is the appellant before us. The respondents - writ petitioners are the retired employees of the appellant Bank having more than 20 years of service. They filed the writ petition contending that they were governed by the Appendix IV Gratuity Rules of the Kerala State Co-operative Bank Staff Regulations (Ext.P1) and the Payment of Gratuity Act, 1972. Rule 5(e) of Ext.P1 stipulates that gratuity payable shall be the amount equal to one month's pay for every year of service, provided that the amount so payable shall not exceed 15 months pay. As per Section 4(3) of the Payment of Gratuity Act, 1972, the maximum amount payable to an employee shall not exceed Rs.10 lakh. However, Section 4(5) of the Payment of Gratuity Act, clearly provides that nothing in that section shall affect the right of an employee to receive better terms of gratuity under any award or agreement or contract with the employer.

2. The first petitioner had sent a letter dated 12.02.2012 to the appellant demanding the gratuity as provided under Ext.P1 to which

Ext.P3 reply was sent by the appellant dated 16.02.2013. The petitioner contends that a Full Bench of this Court in **Chandrasekharan Nair G & others v. Kerala State Co-operative Agricultural and Rural Development Bank Ltd. & others** [2017(4) KLT 276] held that Section 4(5) of the Payment of Gratuity Act which enables an employee to opt for better terms of gratuity and the same would prevail over the second proviso to Rule 59 (iii) of the Kerala State Co-operative Societies Act, 1969. Similarly situated employees of the appellant bank, claiming the benefit of the Full Bench decision filed WP(C)No.27507 of 2013 and the same was allowed by this Court by judgment dated 7.12.2017, Ext.P5. Thereafter, the petitioner sent a representation dated 14.12.2017 (Ext.P6) demanding the balance amount of gratuity to which they are entitled in excess of Rs.10 lakh already paid along with interest thereon at the rate of 9% p.a., taking into account the salary revision implemented with effect from 1.4.2012. The petitioner submits that the appellant ignoring the Full Bench decision and Ext.P5 binding judgment, sent a reply on 30.12.2017, (Ext.P7) stating that the Bank was liable to pay the eligible gratuity only as per the limit mentioned in the Central Act of 1972 or the Kerala Co-operative Societies Act, 1969, whichever is applicable. Thus, by Ext.P7 the request of the petitioner was turned down. The petitioners challenged the said decision of the bank and sought for higher gratuity as provided in Rule 5(e) of Ext.P1 Rules over and above the gratuity paid at the time of retirement on the basis of the Full Bench judgment above mentioned as well as Ext.P5 judgment

and taking into account the salary revision implemented on 1.4.2017, with interest at the rate of 9% p.a.

3. The appellant had filed a counter affidavit resisting the claim on the basis of their stand taken in Ext.P7 and submitting that Ext.P1 Regulations was prior to the enactment of the Central or the State legislation on Gratuity and after the enactment of specific statute namely the Kerala Co-operative Societies Act , 1969, which consolidated and unified the laws relating to the Co-operative Societies in Kerala, it is the provisions of the said Act that becomes the enabling provisions for the payment of gratuity and this provision would over ride the Regulations, Ext.P1 as well. It is also the further contention of the appellant bank that going by Section 13A of the Kerala Co-operative Societies Act, the bye-laws made by the Co-operative Society shall not be inconsistent or contrary to the provisions of the Kerala Co-operative Societies Act or Rules and thus the Bank was right in computing the amount payable to the petitioner under Section 4(2) of the Payment of Gratuity Act, 1972. The Bank also took up a contention that the Full Bench decision cannot be taken as an absolute position of law as the facts involved are different.

4. The learned single Judge, who considered the matter found that the issue raised by the petitioners is squarely covered by the judgment in WP(C)No.27507 of 2013, Ext.P5. The learned single Judge also noticed that the retired employees of the Bank would be entitled for

a higher amount of gratuity in terms of Payment of Gratuity Rules that contained in Appendix IV of the Kerala State Co-operative Bank Staff Regulations, in view of Section 4(5) of the Payment of Gratuity Act notwithstanding the fact that only a lesser amount is due under Section 4(2) thereof. It is also noticed that Ext.P5 judgment was again followed in the judgment in WP(C)No.1023 of 2019 dated 21.8.2019. The learned single Judge also found that the Division Bench in WA No.524 of 2018 noticing the law laid down by the Full Bench in **Chandrasekharan Nair** (supra) found the eligibility of the employees therein that they are entitled to the higher amount of gratuity in view of Ext.P1 Staff Regulations. Accordingly, the learned single Judge relied on the judgments mentioned above to allow the writ petitions which is impugned before us.

5. We have heard Sri. Gilbert George Correya, the learned counsel for the appellant and Sri.Mohan Idiculla Abraham, the learned counsel for the respondents.

6. The learned counsel for the appellant Sri. Gilbert George Correya argues that the judgment in **Chandrasekharan Nair** (supra) is clearly distinguishable. He also argued that going by Section 7 of the Payment of Gratuity Act an appeal is provided against the order of the controlling authority and if at all the petitioners are aggrieved about the quantum of gratuity they should have taken recourse to alternate remedy.



It is also argued by the learned counsel that Ext.P1 Regulations came into force on 16.02.1968 prior to the enactment of the Central or the State Regulations of Gratuity and after the coming into force of the Kerala Co-operative Societies Act, 1969, the petitioners would be bound by that. He also relied on the judgments in **Thalassery Co-operative Rural Bank Ltd. v. Mukundan** [2021 (1) KLT 663] and **Y.K.Singla v. Punjab National Bank and others** [(2013) 3 SCC 472] to support his contentions. He also argued that there was no choice for the writ petitioners since they are subject to the provisions of the Payment of Gratuity Act, 1972, and that there was no agreement, award or contract that has been entered into for the “better terms” and in the absence of the same the bank cannot be directed to make excess payments. The learned counsel further submitted that the learned single Judge has not appreciated the application of Section 4(5) of the Payment of Gratuity Act, 1972 as well as the second proviso to Rule 59(iii) of the Kerala Co-operative Societies Act, 1969 , in the correct perspective.

7. On going through the judgments referred and relied on by the learned single Judge, we are in complete agreement with the finding that the matter in issue is squarely covered by the judgment in **Chandrasekharan Nair** (supra) as well as WP(C)No.1023 of 2019, WA No.524 of 2018 and WP(C)No.27507 of 2013. These judgments against the very same bank cover the issue on all fours and we are in complete agreement with the proposition laid down in them. We also note that the

judgment in WP(C)No. 27507 of 2013 and WP(C)No.1023 of 2019 have become final in the absence of a challenge to the same by the bank and after accepting the same, it was not open to the appellant to contend against the findings in those cases over again.

8. The learned counsel for the appellant however argues that going by the judgment in **BCH Electric Limited v. Pradeep Mehra** (2020 KHC 6365), it must be taken that the view taken by the Full Bench in **Chandrasekharan Nair** (supra) has been changed. We do not think that the said submission is correct. The Supreme Court in the said judgment clearly found that for Section 4(5) of the Payment of Gratuity Act to get attracted, there must be better terms of gratuity available and extended to an employee 'under any award or agreement or contract with the employer' as against what has been provided for under and in terms of the Act. In other words, as against what is made applicable by the Act, if better terms are available under any such arrangement with the employer, Section 4(5) stipulates that nothing in Section 4 shall affect the right of any employee to receive such better terms. Thus when two choices are available, one under the provisions of the Payment of Gratuity Act and the other under such arrangement with the employer and if the latter offers better terms, the employee cannot be denied the right to receive those higher benefits. This we feel is in consonance with the judgment in **Chandrasekharan Nair** (supra) and not against it. That apart, the Supreme Court in **BCH Electric Limited** (supra) clearly

found on facts that in that case there was no such choice available to the employees or no scheme existed which provided for better terms and in the absence of two alternatives one in terms of the Act and one as per the award or agreement or contract with the employer, the employees cannot get the benefit of Section 4(5) of the Act. The judgment of the Supreme Court is thus clearly distinguishable as the Supreme Court itself holds that in that case the employees are covered by the provisions of the Act even according to the trust deed therein, the amount of gratuity had to be calculated in accordance with the provisions of the Act. We therefore, reject the contentions of the learned counsel for the appellant that the judgment in **BCH Electric Limited** (supra) is a shift from the view taken in **Chandrasekharan Nair** (supra).

9. The learned counsel also argues based on the judgment in **Thalassery Co-operative Rural Bank Ltd.** (supra) that the writ petitioners had an alternate remedy both under the Payment of Gratuity Act as well as under the Kerala Co-operative Societies Act and that any dispute in connection with the employment had to be settled by resorting to the alternate remedy. We do not accept the said contention as in this case there is no factual dispute that needs resolution and the matter in issue is squarely covered in favour of the writ petitioners and in such circumstances relegating the petitioners to avail alternate remedy is onerous and harsh. It is pertinent to note that the bank is enjoined to act as a model employer whose actions on all fronts, including in the matter

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of payment of gratuity to its employees, must be informed by fairness in action. Having accepted the judgments mentioned above, the bank cannot adopt double standards while dealing with the similarly situated employees. The learned counsel also attempted to argue that Ext.P1 Regulations cannot be held to be an award or agreement or contract. We hold that Ext.P1 Regulations should definitely be an instrument or contract having the force of law which regulate the payment of gratuity to the writ petitioners. The non-obstante clause contained in sub section (5) of Section 4 of the Payment of Gratuity Act had overriding effect over all the other sub sections under Section 4 and Ext.P1 must be taken as a contract within the meaning of Section 4(5) of the Payment of Gratuity Act. No other contentions are urged.

The upshot of the discussion is that there is no merit in the Writ Appeals and are accordingly dismissed.

Sd/-

**A.K.JAYASANKARAN NAMBIAR,**  
**JUDGE**

Sd/-

**MOHAMMED NIAS C.P.,**  
**JUDGE**

dlk 11.7.22