

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

THURSDAY, THE 19TH DAY OF JANUARY 2023 / 29TH POUSHA, 1944

WP(C) NO. 312 OF 2023

PETITIONER:

RADHAKRISHNAN K
AGED 58 YEARS
S/O. KELY,
RESIDING AT CHATTIYODE HOUSE,
POTHUNDI POST, NENMARA,
PALAKKAD DISTRICT, PIN - 678508

BY ADVS.
MANU GOVIND
AYESHA MARIA JOHN

RESPONDENTS :

- 1 THE STATE OF KERALA
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF DAIRY DEVELOPMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 THE DIRECTOR OF DIARY DEVELOPMENT
DIRECTORATE, DAIRY DEVELOPMENT DEPARTMENT,
PATTOM PALACE P.O.,
THIRUVANANTHAPURAM
PIN - 695004
- 3 THE MALABAR REGIONAL CO-OPERATIVE MILK PRODUCERS UNION
(MRCMPU), HEAD OFFICE, PERINGOLAM, KOZHIKODE-PIN -
673571, REPRESENTED BY ITS MANAGING DIRECTOR.
- 4 THE SECRETARY
DEPARTMENT OF CO-OPERATION,
OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
JAWAHAR SAHAKARANA BHAVAN, DPI JUNCTION,
THYCAUD P.O., THIRUVANANTHAPURAM
PIN - 695014

BY ADVS.
GOVERNMENT PLEADER
SMT.LATHA ANAND, SC, MRCMPU LTD.

SRI.JOSHY THANNICKKAMATTAM -GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
19.01.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner, who, admittedly, has now retired from the services of the 3rd respondent - Society, says that he has approached the Government, through Ext.P3, seeking that the age of retirement of all employees in the Co-operative Sector be unified to 60 years. He thus prayed that *"the stipulation in Rule 183(2) of the KCS Rules (to mean the Kerala Co-operative Society Rules) be suitably modified"(sic)*.

2. The afore request of Smt.Ayesha Maria John - learned counsel appearing for the petitioner, was vehemently opposed by Smt.Latha Anand - learned Standing Counsel for the Society, saying that since the petitioner has already retired from service, he cannot obtain any benefit; and that, in any event, he cannot be allowed to seek consideration of Ext.P3 representation, wherein, he has sought for

modification of the Rules, which is impermissible in law. She concluded her submissions saying that, in fact, the present attempt of the petitioner is an indirect one to obtain relief which has already been denied by this Court in various writ petitions filed by other persons; adding that, the request for enhancement of the retirement age therein has already been rejected. She thus prayed that this writ petition be dismissed.

3. Sri.Joshy Thannickamattom - learned Senior Government Pleader, however, submitted that if the petitioner only requires Ext.P3 to be taken up and disposed of by the competent Authority of the Government, there does not appear to be any legal impediment in doing so; but added that it is doubtful whether any result would come out of it, particularly when it is within the Government's decision making realm to decide whether there should be an

amendment to the Rules.

4. When I consider and evaluate the afore submissions, it is evident that this Court cannot take any decision on the claim of the petitioner at this stage, especially since it effectively requires an amendment to the existing Rules. This is a matter to be decided by the Government, including on the maintainability of Ext.P3; and I do not think that petitioner should be denied such an opportunity, merely because the respondent - Society opposes it. This is more so because all the contentions of the Society will also have to be considered by the Government.

In the afore circumstances, I order this writ petition and direct the competent among official respondents to take up Ext.P3 and dispose it of, after hearing the petitioner, as also the authorised officials of the Society; thus culminating in an appropriate order and

necessary action thereon, as expeditiously as is possible, but not later than four months from the date of receipt of a copy of this judgment.

I make it clear that I have not entered into the merits of the petitioner's claims and that the question, whether Ext.P3 is maintainable, is also left open to be decided by the Government appropriately, while the afore exercise is completed.

Sd/-

DEVAN RAMACHANDRAN
JUDGE

SAS

APPENDIX OF WP(C) 312/2023

PETITIONER'S EXHIBITS

Exhibit P1 TRUE COPY OF GO (MS) NO. 402/2017/FIN DATED
25.08.2017 OF THE 1ST RESPONDENT

Exhibit P2 TURE COPY OF GO (P) NO.131/2022/FIN DATED
29.10.2022

Exhibit P3 TRUE COPY OF THE REPRESENTATION DATED
29.12.2022 PREFERRED BY THE PETITIONER BEFORE
THE RESPONDENTS 3 AND 4

//TRUE COPY//

P.A. TO JUDGE