

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
MONDAY, THE 21ST DAY OF MARCH 2022 / 30TH PHALGUNA, 1943
WP(C) NO. 21103 OF 2021

PETITIONER:

SAROJA
AGED 54 YEARS
W/O. LATE RAMESAN , RESIDING AT POYKAKKONOM,
NEDUMANGAD, THIRUVANANTHAPURAM, PIN-695 541

BY ADV AJIT JOY

RESPONDENTS:

- 1 POSTMASTER
MUTTADA S.O., THIRUVANANTHAPURAM, KERALA,
PIN-695 025
- 2 THE SENIOR SUPERINTENDENT OF POSTS,
OFFICE OF THE SENIOR SUPERINTENDENT, RMS TV
DIVISION, TRIVANDRUM-695 036
- 3 ADDL.R3. THE SECRETARY, MINISTRY OF FINANCE
NORTH BLOCK, NEW DELHI-110001.
- 4 ADDL.R4. THE SECRETARY, DEPARTMENT OF POSTS,
DAK BHAWAN, SANSAD MARG, NEW DELHI-110001.

ARE IMPLEADED AS ADDITIONAL RESPONDENTS 3 AND 4 AS
PER ORDER DATED 12-01-2022 IN IA 2/2021 IN WP©

BY ADVS. VIDYA KURIAKOSE, GOVT. PLEADER
SHRI.P.VIJAYAKUMAR, ASG OF INDIA
MANU S., ASG OF INDIA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 21.03.2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

W.P.(C).No.21103 of 2021

Dated this the 21st day of March, 2022

JUDGMENT

Saving money by a poor man or woman is not to buy a BMW car or to purchase a palatial building or for a luxurious life. The same is for fulfilling his/her small dreams. Every man and woman may have dreams about their life.

2. In this case, an illiterate poor domestic helper deposited her hard earned money of Rs.20,000/- in a 2-year post office time deposit scheme. She do not know the fact that after the maturity, the deposit is to be renewed. She thought that she can wait and the interest will accrue every year and she can withdraw the amount when her dream amount arrived. But when she approached the authorities in 2021, for withdrawing the amount, the authorities said that, after two years, she did not renew the deposit and therefore, she is not entitled assured interest after the maturity period. She forced to file this writ petition to get interest for the deposit as on today. Even poor domestic helper who deposited her hard earned money of Rs.20,000/- in the post office time deposit

scheme has to approach this Court to get her interest !

3. Facts in detail are like this:

On 20.11.2012, the petitioner deposited Rs.20,000/- in a 2-year post office time deposit scheme at Muttada Post Office, Thiruvananthapuram. She came to know that the amount of interest on the deposit for two years term was Rs.1,712/- and the interest rate for a 2-year time deposit in 2012-13 was 8.3%. Ext.P1 is the savings pass book of the petitioner which will show that she deposited the amount on 20.11.2012. The petitioner who is a poor domestic helper was not aware of the date of maturity of her amount and had not approached the post office after making the deposit. Admittedly, the postal authorities also not intimated the same to the petitioner. She thought that if the deposit continue for a long period, she will get more interest. Moreover, it is stated in the writ petition that she was also busy with treatment of her daughter who has been suffering for years with acute stomach cramps.

4. Subsequently in 2021, the petitioner approached Muttada Post Office to close the time deposit account and to withdraw her money to meet her personal expenses. Then the authorities informed the petitioner that she will be entitled to

get interest rate on the amount only from 2012 to 2014. Aggrieved by the same, the petitioner submitted a representation before the 1st respondent to disburse the amount from 2014 to 2021. Ext.P2 is the representation. The same is rejected by the authorities as evident by Ext.P5. The main reason for rejecting the prayer of the petitioner is that as per the Post Office Savings Bank Manual (POSB Manual) Volume-I, Rule 138, after the deposit amount has become due for payment, the petitioner has to claim the amount or should renew the deposit in a new account after submitting a prescribed form. Aggrieved by Ext.P5, the petitioner preferred a lawyer notice to respondents 1 and 2 to disburse her amount with interest. The petitioner contended that as per the Post Office Time Deposit (Amendment) Rules, 2014, the Central Government had made certain amendments to the Post Office Time Deposit Rules, 1981, by which the petitioner is entitled full interest until withdrawal of the amount. Ext.P6 is the lawyer notice preferred by the petitioner to respondents 1 and 2. Ext.P7 is the gazetted copy of the notification by which the amendment mentioned in Ext.P6 notice was made. But the respondents refused to entertain the same and rejected the

same as per Ext.P8 reply. In such circumstances, this writ petition is filed with following prayers:

1. Declare that the post office time deposit account of the petitioner in Muttada Post Office, is governed by the Exhibit P-7 Post Office Time Deposit Amendment Rules 2014.
2. Issue a writ of mandamus or appropriate writ, order or direction commanding the 1st respondent to disburse the interest amount on the deposit made in account No- 617074 to the petitioner from the date of renewal to the present day at rates available for 2 year Time Deposit till date of dispersal.
3. Issue a writ of certiorari or appropriate writ, order or direction, quashing the Rule 139 of the POSB Vol_I and the corresponding Rule 9 of the Post Office Time Deposit Rules, 1981 that denies automatic renewal of Time Deposits at the prevailing rate.
4. Issue any other writ, order, or direction that this Hon'ble Court may deem fit and appropriate.

(SIC)

5. Heard the learned counsel for the petitioner Sri.Ajit Joy and also Sri.S.Manu, the learned Assistant Solicitor General of India.

6. The learned counsel for the petitioner reiterated his contentions in the writ petition and submitted that Ext.P7

amended Rules came into existence on 13.03.2014. The maturity date of the petitioner's deposit was on 20.11.2014 and therefore, in the light of Ext.P7, the petitioner is entitled interest as on today even if the deposit is not renewed periodically. But the respondents sent a reply as per Ext.P8 in which it is stated that Ext.P7 amended Rules is applicable for account standing at post office working on Core Banking Solution (CBS) platform. It is also submitted that Muttada Post Office has migrated to CBS platform only on 28.12.2015. As such, POSB Manual Volume-I Rule are applicable at the time of maturity of the deposit on 20.11.2014.

7. This Court considered the contentions of the petitioner and the ASGI. As stated earlier, a poor domestic helper deposited her hard earned money of Rs.20,000/- in the post office time deposit scheme on 20.11.2012. Admittedly the petitioner had not renewed the deposit after the maturity date of the deposit on 20.11.2014. Moreover it is an admitted fact that as per Ext.P7 Post Office Time Deposit (Amendment) Rules, 2014, where a deposit in an account standing at the post office working on Core Banking Solution Platform become due for repayment, the account will be automatically renewed

from the date of maturity of the same period for which it was opened initially and the deposit shall be eligible for the rate of interest applicable on the date of renewal. Ext.P7 amended Rules came into existence on 13.03.2014. Admittedly the maturity date of the deposit made by the petitioner on 20.11.2012 will be on 20.11.2014. Therefore, on the date of maturity of the deposit made by the petitioner, Ext.P7 amended Rules came into force. But the prayer of the petitioner to grant the interest rate is rejected because the Muttada Post Office had migrated to the Core Banking Solution Platform only on 28.12.2015 and hence the POSB Manual Volume-I Rules are applicable. I cannot agree with the same. Simply because Muttada Post Office had not migrated to the Core Banking Solution Platform, the petitioner cannot deny the benefit of Ext.P7 amended Rules. The migration to the Core Banking Solution Platform is something connected to the internal infrastructure of the Post Offices. A poor depositor need not suffer because of the same. If the stand of the respondents are accepted, there will be two classes of people even though Ext.P7 amended Rules are in force. The first category will be the depositors who made their deposit

before a post office which is not migrated to the Core Banking Solution Platform and the second class will be another set of depositors who made their deposits in a post office which already migrated to the Core Banking Solution Platform. The first category will not get the benefit of Ext.P7 amended Rules and the second category will get the benefit of Ext.P7 amended Rules. This is a clear case of discrimination and infringement of the fundamental right of the petitioner under Article 14 of the Constitution of India. Therefore, according to me, the petitioner in this case is entitled interest amount on the deposit made by her from the date of renewal till it is disbursed at the rate available for 2-year time deposit. The petitioner's deposit will be governed by Ext.P7 amended Rules.

8. A statement has been filed by the learned ASGI on behalf of respondents 1 and 2. I perused the statement. The learned ASGI also submitted that the 4th respondent has no role in this matter. Respondents 1 and 2 also says that they have no role in this matter. If that is the case, a responsibility is to be taken by some of the authorities. The constitutional court cannot be a silent spectator in such situation.

9. As I mentioned in the beginning, a poor domestic helper has to approach this Court to get her interest for a pity amount of Rs.20,000/-. This Court has to invoke the power under Article 226 of the Constitution of India in such cases also. It is the hard earned money of a domestic helper. She expected that she will get a huge amount, for her deposit, if she wait for sometime. So she waited till 2021. she approached the authorities in the year 2021. In such situation, the denial of interest to the petitioner, according to me, is not only unconscionable, but it is a clear case of injustice. The petitioner has to approach this Court to get interest for Rs.20,000/-. When respondents 1 and 2 filed a statement in which they submitted their inability to do anything in this case because of the existing rules, this Court allowed the petitioner to implead additional respondents 3 and 4. But the additional respondents 3 and 4 also were not able to help this poor domestic helper. Admittedly the deposit of Rs.20,000/- is with the postal authorities. After keeping the deposit in their custody, the respondents are teaching the red tape rules to this poor domestic helper. In such situation, according to me, the respondents should to pay a cost of

Rs.5,000/- also to the petitioner.

10. As I stated earlier, the petitioner is a domestic helper. According to me, the action of respondents is a clear case of injustice. In such circumstances, the petitioner need not go to the office of respondents 1 and 2 to get this amount. The respondents will pay this amount to the petitioner directly through cheque or any other facility within the time fixed by this Court.

11. The Apex Court in **Central Inland Water Transport Corporation Ltd and Another v. Brojo Nath Ganguly and Another [1986 KHC 810]** observed like this :

“91. Should then our courts not advance with the times? Should they still continue to cling to outmoded concepts and outworn ideologies? Should we not adjust our thinking caps to match the fashion of the day? Should all jurisprudential development pass us by, leaving us floundering in the sloughs of nineteenth century theories? Should the strong be permitted to push the weak to the wall? Should they be allowed to ride roughshod over the weak? Should the courts sit back and watch supinely while the strong trample under foot the rights of the weak? We have a Constitution for our country. Our judges are bound by their oath to "uphold the Constitution and the laws". The Constitution was enacted to secure to

all the citizens of this country social and economic justice. Art.14 of the Constitution guarantees to all persons equality before the law and the equal protection of the laws. The principle deducible from the above discussions on this part of the case is in consonance with right and reason, intended to secure social and economic justice and conforms to the mandate of the great equality clause in Art.14. This principle is that, the courts will not enforce and will, when called upon to do so, strike down an unfair and unreasonable contract, or an unfair and unreasonable clause in a contract, entered into between parties who are not equal in bargaining power. It is difficult to give an exhaustive list of all bargains of this type. No court can visualize the different situations which can arise in the affairs of men. One can only attempt to give some illustrations. For instance, the above principle will apply where the inequality of bargaining power is the result of the great disparity in the economic strength of the contracting parties. It will apply where the inequality is the result of circumstances, whether of the creation of the parties or not. It will apply to situations in which the weaker party is in a position in which he can obtain goods or services or means of livelihood only upon the terms imposed by the stronger party or go without them. It will also apply where a man has no choice, or rather no meaningful choice, but to give his assent to a contract or to sign on the dotted line in a prescribed or standard form or

to accept a set of rules as part of the contract, however unfair, unreasonable and unconscionable a clause in that contract or form or rules may be. This principle, however, will not apply where the bargaining power of the contracting parties is equal or almost equal. This principle may not apply where both parties are businessmen and the contract is a commercial transaction. In today's complex world of giant corporations with their vast infra structural organizations and with the State through its instrumentalities and agencies entering into almost every branch of industry and commerce, there can be myriad situations which result in unfair and unreasonable bargains between parties possessing wholly disproportionate and unequal bargaining power. These cases can neither be enumerated nor fully illustrated. The court must judge each case on its, own facts and circumstances."

12. Keeping in mind the above principle laid down by this Court, I think this is a fit case in which this Court should step into action and invoke the jurisdiction under Article 226 of the Constitution of India to help this poor domestic helper who deposited an amount of Rs.20,000/- with a hope that she will get the eligible interest after lapse of years. Petitioner is also entitled an amount of Rs.5,000/- as cost.

Therefore, this writ petition is allowed in the following

manner:

1. There will be a direction to respondents 1 to 4 to disburse the interest amount on the deposit made in Account No.617074 to the petitioner along with the principal amount from the date of renewal at the rate available for 2-year time deposit till the date of disbursement.
2. Respondents 1 to 4 shall pay a cost of Rs.5,000/- along with the above amount to the petitioner.
3. The principal amount, the accrued interest and the cost amount will be paid to the petitioner directly by respondents 1 to 4 or through an authorised officer of respondents 1 to 4, as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment.

sd/-

P.V.KUNHIKRISHNAN
JUDGE

JV

APPENDIX OF WP(C) 21103/2021

PETITIONER EXHIBITS

Exhibit P1 A TRUE COPY OF THE PASS-BOOK ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER

Exhibit P2 A TRUE COPY OF THE REPRESENTATION PREFERRED BY THE PETITIONER BEFORE THE 1ST RESPONDENT

Exhibit P3 A TRUE COPY OF THE RELEVANT SECTIONS OF THE (POSB MANUAL) VOL-I

Exhibit P4 A TRUE COPY OF THE POST OFFICE TIME DEPOSIT RULES, 1981

Exhibit P5 A TRUE COPY OF THE REPLY FILED BY THE 2ND RESPONDENT TO THE PETITIONER DATED 27.08.2021 REJECTING THE PETITIONERS CLAIM

Exhibit P6 A TRUE COPY OF THE LEGAL NOTICE PREFERRED BY THE PETITIONER TO THE 1ST RESPONDENT ALONG WITH A COPY OF THE 2ND RESPONDENT DATED 14.08.2021

Exhibit P7 A TRUE GAZETTED COPY OF THE NOTIFICATION NO.GSR222(E) (F.NO.2/7/2012/NS-II) DATED 13.03.2014

Exhibit P8 A TRUE COPY OF THE REPLY TO THE NOTICE PREFERRED BY THE 2ND RESPONDENT DATED 09.09.2021

RESPONDENTS' EXHIBITS

ANNEXURE R1(A) COPY OF THE RELEVANT PART OF THE RULES GOVERNING TIME DEPOSIT ACCOUNT