



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

MONDAY, THE 7TH DAY OF JULY 2025 / 16TH ASHADHA, 1947

WP(C) NO. 17963 OF 2019

PETITIONER:

A.CHANDRAN
S/O.LATE S.APPUKUTTAN, ADVOCATE CLERK,
C/O.GOURISANKAR ASSOCIATES, PALAKKAD,
NISHALAYAM HOUSE, AYILAPADAM,
NENMARA POST - 678 508, CHITTUR TALUK,
PALAKKAD DISTRICT.

BY ADVS.
SRI.O.RAMACHANDRAN NAMBIAR
SRI.GEEN T.MATHEW

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE ADDITIONAL CHIEF
SECRETARY - FINANCE, DEPARTMENT OF FINANCE,
GOVERNMENT OF KERALA, FIRST FLOOR,
MAIN BLOCK, SECRETARIAT, THIRUVANANTHAPURAM
POST - 695 001, THIRUVANANTHAPURAM DISTRICT
- 2 THE KERALA ADVOCATE'S CLERKS WELFARE FUND
COMMITTEE, REPRESENTED BY ITS SECRETARY,
MANIMANDIRAM, T.C 26/580 (1) SERA - 24, BEHIND
PRESS CLUB, THIRUVANANTHAPURAM DISTRICT - 695 001
- 3 THE DIRECTOR OF INSURANCE
(FORMER ADMINISTRATOR OF THE KERALA ADVOCATE'S
CLERKS WELFARE FUND SCHEME RULES, 1985),



DIRECTORATE OF INSURANCE, TRANS TOWER,
VAZHUTHACAUD POST - 695 014,
THIRUVANANTHAPURAM DISTRICT.

BY ADVS.

SRI.N.MANOJ KUMAR

SMT.JAYASREE K.P.

SRI.T.JAYAN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
07.07.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**C.R.****JUDGMENT**

The petitioner, an advocate clerk, has filed the captioned writ petition, contending that he started to work as an advocate clerk in the year 1970 with the office of late Sri.A.Gourisankar, Advocate, Palakkad, and that after the death of the afore lawyer, he continued to function as a registered clerk in the office continued by the juniors. He states that once the Kerala Advocates' Clerks Welfare Scheme Rules, 1985, was introduced during January, 1985 (hereinafter referred to as the 'Rules', for short), the petitioner obtained registration thereunder. It is his further contention that he paid his subscription under the Scheme till July, 2004, when he realised that with reference to the provisions of Rule 4(2), he was entitled to retire having completed 30 years of service with reference to the commencement in the year 1970. In such circumstances, the petitioner sought for the benefits pursuant to the Scheme by making an appropriate application before the 2nd respondent herein, and pursuant to Ext.P4, dated 27.11.2018, the petitioner states that only an amount of Rs.1200/- is sanctioned to him, quite contrary to the



provisions of the Scheme, as per which he was entitled to an amount of Rs.10,000/-.

2. I have heard Sri.Geen T.Mathew, the learned counsel for the petitioner as well as Smt.K.P.Jayasree, the learned counsel for the 2nd respondent herein.

3. The sustainability or otherwise of the calculation made pursuant to Ext.P4 as regards the petitioner herein is the issue arising for consideration in this writ petition.

4. Smt.Jayasree, on behalf of the 2nd respondent, would contend that, (i) the petitioner is entitled to calculate his service for the period after 1985 alone, when he obtained the registration under the Scheme (ii) without prejudice to the afore, it is her contention that the petitioner has been able to prove his service as an advocate clerk only from the year 1981 onwards, with reference to Ext.P6 reply letter under the Right to Information Act, 2005, from the District Court, Palakkad.

5. As regards the first contention, I am of the opinion that the provisions of Rule 4 of the Scheme provides for benefits upon "completion of 30 years as an advocate clerk" or on the attainment of 60 years of age. The afore stipulation is not with reference to



the commencement of the Rules in January, 1985. The afore provides for only the completion of 30 years of service, deeming that even earlier period of service can be reckoned for calculating the benefits under the Scheme. This Court also notices the provisions of Regulation 7 to Kerala Advocates' Clerks Welfare Fund Scheme Accounting Transactions Regulations, 1988, as per which, the fact that even "existing advocates' clerks" are extended the benefits, is made clear. In such circumstances, I am of the opinion that Sri.Geen Mathew is justified in contending that the petitioner is entitled to calculate his service prior to the commencement of the 1985 Rules, for seeking the benefits.

6. Even on the face of the afore, the second issue that arises for consideration would be as to whether the petitioner has been successful in proving that he had already completed 30 years of service as on July, 2004. Going by the submissions made by Smt.Jayasree, the period from 1985 alone can be counted. However, the petitioner has produced the reply at Ext.P6 under the Right to Information Act, 2005, dated 18.05.2020, issued by the District Court, Palakkad, certifying that as per the advocate clerk register available in the District Court, the petitioner's name



is available from 1981 onwards, further adding that records for the prior periods are not available. Therefore, from 1981 onwards, there is evidence as regards the petitioner working as an advocate clerk at Palakkad. This Court further notices that even under Ext.P6, the position prior to 1981 could not be certified by the District Court, solely on account of the "non-availability of the relevant register" and not on account of any fault of the petitioner.

7. This Court also notices that many advocate clerks have been functioning as a clerk, even prior to the commencement of the 1985 Rules. Therefore, merely for the reason that the Court records do not contain the details prior to 1981, I am of the opinion that the petitioner is not to be denied an otherwise available benefit under the Scheme. In such circumstances, the further question arises as to the nature of evidence that could be produced by the petitioner and could be acted upon by the 2nd respondent Committee.

8. I am of the opinion that it is for the petitioner to obtain evidence in the form of affidavits from senior lawyers of the Palakkad Bar, certifying that the petitioner, claiming to be a person of 72 years of age, has been working as an advocate clerk from



1970 onwards. If such evidence is produced by the petitioner, the 2nd respondent will consider the same and grant the available benefits to the petitioner under the provisions of the Scheme.

In such circumstances, I dispose of this writ petition as under;

- i. There will be a direction to the petitioner to produce evidence in the manner referred as above, before the 2nd respondent herein, within a period of eight weeks from the date of receipt of a certified copy of this judgment.
- ii. If the petitioner is producing such evidence, the 2nd respondent to consider the same, after extending due credibility to the affidavit/evidence from the senior lawyer of the Bar.

Sd/-

HARISANKAR V. MENON
JUDGE

anm

APPENDIX OF WP(C) 17963/2019**PETITIONER'S EXHIBITS**

- EXHIBIT P1 TRUE COPY OF THE CERTIFICATE DATED 27.03.2019 ISSUED BY THE KERALA ADVOCATE CLERKS ASSOCIATION, PALAKKAD UNIT
- EXHIBIT P2 TRUE COPY OF THE CERTIFICATE FOR THE MEMBERSHIP NO.P.014 DATED 14.03.1986
- EXHIBIT P3 TRUE COPY OF THE APPLICATION DATED 25.07.2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXHIBIT P4 TRUE COPY OF THE ORDER NO.2307/A1/K.A.C.W.F.C/2015 DATED 27.11.2018 ISSUED BY THE 2ND RESPONDENT
- EXHIBIT P5 TRUE COPY OF THE APPLICATION DATED 04.03.2020 FILED BY THE PETITIONER BEFORE THE PUBLIC INFORMATION OFFICER, DISTRICT COURT, PALAKKAD
- EXHIBIT P6 TRUE COPY OF THE REPLY LETTER NO.PIO-02/2020 D NO.4228-2020 DATED 18.05.2020 ALONG WITH THE CERTIFIED COPY OF THE 1981 REGISTER ISSUED BY THE PUBLIC INFORMATION OFFICER, DISTRICT COURT, PALAKKAD
- EXHIBIT P7 TRUE COPIES OF THE CARD ISSUED BY THE SHERISTADAR, DISTRICT COURT, PALAKKAD

RESPONDENTS' EXHIBITS

- EXHIBIT R2 (a) TRUE COPY OF ORDER NO.2307/KCWFC/2015 DATED 4-3-2016 ISSUED BY 2ND RESPONDENT.