

(2008) 03 KL CK 0063

In the High Court Of Kerala

Case No : Writ Petition (C) No. 24002 of 2007

N.A. Krishnakumar

APPELLANT

Vs

The Kerala State Co-operative Employees' Pension Board

RESPONDENT

Date of Decision : 12-03-2008

Acts Referred:

Kerala Co-operative Societies Act, 1969 — Section 80A

Citation : (2008) 1 KLJ 729

Hon'ble Judges : Thottathil B. Radhakrishnan, J

Bench : Single Bench

Advocate : K. Ramakumar and T. Ramprasad Unni, for the Appellant; P.V. Mohanan (SC), for the Respondent

Final Decision : Allowed

Judgement

Thottathil B. Radhakrishnan

1. Going by the counter affidavit of the first respondent, the petitioner, born on 27-5-1956, joined its service on 7-3-1979 and voluntarily retired on 30-9-2000. Clause 21 of the Pension Scheme contained in G.O.(P) No. 44/1995 dated 14-3-1995 provided that a retiring pension shall be granted to an employee who retired voluntarily after completing a minimum of 20 years of qualifying service. That was the provision that governed the parties while the petitioner retired.

2. Thereafter, on 7-3-2001, as per G.O.(P) No. 53/2001, Clause 21 of G.O.(P) No. 44/ 1995 was amended to include a further condition to the effect that retiring pension shall be granted to an employee who retired voluntarily "after completing a minimum of twenty years of qualifying service on attaining the age of 50 years. "That amendment is stated to have been brought in with effect from 1-4-1998.

3. Section 80A of the Kerala Co-operative Societies Act, 1969 provides for framing a Self Financing Pension Scheme. By sub-section (1) of that section, the Government may, by notification in the Gazette, frame a Self Financing Pension

Scheme. Section 80A is a self-contained code and it does not authorize amendment to the scheme retrospectively. Therefore, the amendment made as per G.O.(P) No. 53/2001 by including the condition that the incumbent ought to have also crossed the age limit of 50 years, cannot apply to those who had, as a matter of fact, applied for and were granted voluntary retirement before 7-3-2001, the date of that notification. The petitioner being such a person, his entitlement has, therefore, to be determined with reference to G.O.(P) 44/1995 without reference to G.O.(P) No. 53/2001.

4. For the aforesaid reasons, the refusal to extend to the petitioner, retiring pension, is unsustainable. In the result, this writ petition is allowed as prayed for.