**(2020) 11 KL CK 0095**

**In the High Court Of Kerala**

**Case No :** Writ Petition (Civil) No. 7250 Of 2020 (E)

S.S. Satheesachandran APPELLANT

Vs

State Of Kerala RESPONDENT

**Date of Decision :** 24-11-2020

**Acts Referred:**

High Court Judges Travelling Allowance Rules, 1956 — Rule 7C
Kerala Consumer Protection Rules, 2005 — Rule 26(1), 26(3)

**Citation :** (2020) 11 KL CK 0095

**Hon'ble Judges :** N. Nagaresh, J

**Bench :** Single Bench

**Advocate :** Shyam Padman, C.M. Andrews, Boby M. Sekhar, Irene Abraham, Deepa Narayanan

**Final Decision :** Disposed Of

## Judgement

1. The petitioner, who is a former Judge of the High Court of Kerala, is forced to file this writ petition consequent to non-sanctioning of due amount

towards Transfer TA.

2. After his retirement on superannuation as Judge of High Court, the Government of Kerala appointed the petitioner as President of the Kerala

Consumer Disputes Redressal Commission, on 11.07.2017, as per Ext.P1 Government Order. The petitioner assumed office on 26.07.2017 and

vacated the post on 02.03.2019. On vacating the office, a transfer bill towards the expenses for travel and for the transportation of his personal

effects, was sent to the Government and the Government, as per Ext.P3 order dated 21.05.2019, sanctioned Rs. 2,01,375/-.

3. The amount was sanctioned as per Rule 7C of the High Court Judges Travelling Allowance Rules, 1956. After about eight months, Ext.P5 order

 

dated 31.01.2020 was served on the petitioner whereby the petitionerâ??s Transfer TA was limited to 80% of the basic pay last drawn. The

petitioner has approached this Court, aggrieved by Ext.P5 order.

4. The respondent filed a counter affidavit and contested the writ petition. The respondent stated that after issuance of Ext.P3 Government Order, the

Finance Department, relying upon Ext.P6 Office Memorandum issued by the Government of India relating to Travelling Allowance pursuant to the

implementation of the 7th Pay Commission, remarked that the amount sanctioned as per Ext.P3 should be reduced to 80% of the basic pay last drawn

by the petitioner.

5. Relying upon item 3(ii)(a) of Ext.P6, the respondent argued that the Composite Transfer Grant shall be paid at the rate of 80% of the last month's

basic pay in case of transfer involving a change of station located at a distance of or more than 20 Km. from each other. Going by the aforesaid

Office Memorandum, the petitioner is entitled to Transfer TA only at the rate of 80% of the last month's basic pay.

6. I have heard Advocate Sri. Shyam Padman appearing for the petitioner and Sri. M.R. Sabu learned Senior Government Pleader representing the

respondent.

7. Rule 26(1) and (3) of the Kerala Consumer Protection Rules, 2005 reads as follows:-

â??26. Salary, honorarium, other allowances and the conditions of service of the President and Members of the State Commission:- (1) The President

of the State Commission shall be entitled to salary, allowances as are admissible to a sitting Judge of the High Court, if appointed on whole-time basis

or to an honorarium of Rs.1000/- (Rupees one thousand only) per day for each sitting if appointed on part-time basis.

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(3) The President shall be entitled to travelling and daily allowance for the official tour undertaken by him at the same rates as are admissible to a

sitting Judge of the High Court and shall be entitled to travel by air in executive class.â??

8. Going by the said Rule 26(1) and (3), the petitioner will be entitled to allowances as are admissible to the sitting Judge of the High Court, if

appointed on whole-time basis. The respondent has no case that the petitioner has not been appointed on whole-time basis.

9. Furthermore, the petitioner had approached this Court filing W.P.(C) No.26888/2018 for disbursal of his Terminal Benefits. This Court, in paragraph

6 of Ext.P2 judgment, held that the petitioner will be entitled to salary, allowances and all other service benefits including travelling and daily

allowances as are admissible to a sitting Judge of the High Court as provided in the Rules.

10. Going by Ext.P2 judgment, the petitioner is entitled to Transfer TA at the rates as are admissible to a sitting Judge of the High Court, in view of

Rule 26(1) and

(3) of the Kerala Consumer Protection Rules, 2005. The respondent has not challenged Ext.P2 judgment filing appeal and hence Ext.P2 judgment has

become final. Therefore, Ext.P5 order passed by the respondent cannot be legally sustained.

11. In the circumstances, the impugned Ext.P5 order of the respondent is quashed. The respondent is directed to pay to the petitioner Transfer TA of

Rs. 2,01,375/- due on the retirement of the petitioner, as ordered in Ext.P3, as expeditiously as possible and at any rate, within a period of one month.

The writ petition is disposed of as above.

 