

(2012) 08 KL CK 0199

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 19681 of 2012 (I)

Vasudevan P.

APPELLANT

Vs

Chief Welfare Fund Inspector Kerala Toddy Workers Welfare
Fund Board Medical College. P.O., Ullur
Thiruvananthapuram-695011, District Welfare Fund
Inspector, Kerala Toddy Workers Welfare Fund Board
Palakkad District-678001, District Collector Palakkad,
Collectorate, Near Municipal Townhall Palakkad-678001 and
Village Officer Ambalappara-I Village, Ottappalam Taluk
Palakkad District-679512

RESPONDENT

Date of Decision : 22-08-2012

Acts Referred:

Citation : (2012) 08 KL CK 0199

Hon'ble Judges : P.R. Ramachandra Menon, J

Bench : Single Bench

**Advocate : P.R. Shaji, for the Appellant; P.A. Raziya Government Pleader and
Sri. K.D. Babu, SC, KTWFFB, for the Respondent**

Judgement

P.R. Ramachandra Menon, J.

APPENDIX

PETITIONER(S) EXHIBITS

EXT.P1

A True Copy of The Representation Submitted By The Convener of Shop No. 6 of
Kannamangalam West, Mr. Kannappanunni Before The 1st Respondent Chief
Welfare Fund Inspector and 2nd Respondent District Welfare Fund Inspector.

EXT.P2

Letter B3/Refund/09-10/Ottapalm/6402 Dated 3-11-2009 Issued By The 2nd
Respondent.

EXT.P3

The True Copy of The Demand Notice Dated 26-7-2012 Issued By The 3rd Respondent.

EXT.P4

The True Copy of The Demand Notice Dated 26-7-2012 Issued By The 3rd Respondent.

RESPONDENTS' EXHIBITS

NIL.

1. The petitioner was the licensee of Toddy Shop No. 42 of Kannamangalam East range during the year 2004-05 to 2006-07. In view of the liability to pay contribution under the Toddy Workers Welfare Act/Scheme, the petitioner remitted the necessary amount; which unfortunately happened to be credited in respect of Toddy Shop No. 6 of Kannamangalam West, which was one of the shops being run by the petitioner joining hands with somebody else. The mistake came to light only subsequently, when the petitioner approached the concerned respondent to set things right. In the meanwhile the petitioner has been required to satisfy the liability in respect of Toddy Shop No. 42 as borne by Ext. P3 and P4 notices issued under the RR Act. The Learned Counsel for the petitioner submits with reference to the contents of Ext. P1 and P2 orders passed by the concerned officers of the Welfare Fund Board that, they are actually convinced of the mistake and it is accordingly that the amount remitted by the petitioner in respect of the Toddy Shop No. 6 has been observed as could be refunded. The Learned Counsel submits that the said amount is liable to be transferred to the account of the petitioner in respect of Toddy Shop No. 42.

2. The submission of the petitioner is sought to be opposed by the learned Standing Counsel for the respondents 1 and 2 stating that the amount deposited in respect of Toddy Shop No. 6 was by the concerned licensee by name Kannappanunni, whose name has been specifically referred as to in Ext. P1 and P2, though the petitioner might be of interest or involvement in running the same. The learned Standing Counsel also points out that there is no provision to transfer the amount, even though the remittance has been made in excess or by mistake and that the proper course available to the parties concerned is to file an application for "refund" and to satisfy the liability covered by Ext. P3/P4, which are having independent existence of their own.

3. Considering the facts and figures, this Court finds that, the total liability sought to be satisfied by the petitioner as per Ext. P3 and P4 is to an extent of Rs. 1,55,118/-(Rupees one lakh fifty five thousand one hundred and eighteen) plus such other charges, while the mistaken remittance made in respect of Toddy Shop No. 6 and ordered to be refunded by Ext. P1/P2 is something more than this extent, coming to about Rs. 1.6 lakhs. In the above circumstance, the petitioner is set at liberty to cause filing of proper application through the

competent person to get refund of the amount flowing from Exts.P1 and P2, with one week from the date of receipt of a copy of this judgment; upon which necessary steps shall be taken to effect the refund as mentioned in Ext. P1 and P2 within a further period of "two weeks" thereafter. It is for the petitioner to clear the liability flowing from Exts.P3 and P4 separately. So as to enable the petitioner to pursue the matter as mentioned above, in getting the necessary refund and to satisfy the liability covered by Exts.P3 and P4, implementation of Exts.P3 and P4 is ordered to be kept in abeyance for a period of two months.

Writ petition is disposed of.