IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2026 / 29TH MAGHA, 1947

WP(C) NO. 25229 OF 2024

PETITIONER:

I. BINDHU,
AGED 57 YEARS
D/O. K. BHASKARAN NAIR, SREEVALSOM
(THOPPUMVILAKOM), VELLANADU (P.O.),
THIRUVANANTHAPURAM, PIN - 695543

BY ADVS.
SRI.GOPAKUMAR R.THALIYAL
SRI.M.S.VIJAYACHANDRA ABABU
SRI.R.B.BALACHANDRAN
SHRI.JITHU S. BABU

RESPONDENTS:

1 THIRUVANANTHAPURAM SERVICE CO-OPERATIVE BANK LIMITED, NO.T.131, PRESS ROAD, THIRUVANANTHAPURAM, REPRESENTED BY ITS SECRETARY, PIN - 695001

2 THE LABOUR COURT,
KOLLAM, PIN - 691013

BY ADVS.
SRI.N.ANAND
SRI.T.L.SREERAM
SHRI.RAJESH O.N.
SHRI.ROY ANTONY

OTHER PRESENT:

SMT. MABLE C KURIAN (GP)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12.07.2024 AND HAVING BEEN FINALLY HEARD ON 16.01.2026, THE COURT ON 18.02.2026 DELIVERED THE FOLLOWING:

'C.R'

JUDGMENT

The petitioner was working as a Pharmacist in a Neethi Medical Store being operated by the 1st respondent Bank (hereinafter referred to as 'the Management'). Disciplinary proceedings were initiated against her, and a punishment of dismissal from service was imposed, effective from 6.11.2012. The petitioner initiated proceedings under Section 2A (2) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the I.D. Act') before the Labour Court, Kollam, as the conciliation before the District Labour Officer did not reach any conclusion. The Labour Court registered the application as I.D. No.9/2019 and by Ext.P2 award dated 29.09.2023 set aside the disciplinary proceedings and remitted the matter, reserving the liberty of the management to initiate fresh disciplinary proceedings starting from the stage of issuance of charge memo. However, noting the fact that the petitioner was dismissed from service in the year 2012, it was directed that the fresh proceedings shall be initiated and concluded within the period of three months from the date of the award, namely, 29.09.2023. It was further directed that on failure to complete the proceedings within the time limit, the management shall reinstate the

petitioner in service with all benefits. The management moved Ext.P3 application dated 18.03.2024 for extension of time to complete the proceedings. It was stated that though the time given for completion of disciplinary proceedings was three months from 29.09.2023, the award was available to the management only on 19.12.2023. The steps taken for holding and completing fresh disciplinary proceedings in terms of the findings in Ext.P2 award were also stated in Ext.P3. In the circumstances mentioned in Ext.P3, the management sought a further period of three months for completion of the disciplinary proceedings. By Ext.P5 order dated 28.06.2024, the Labour Court granted a further period of one and a half (1 ½) months to complete the disciplinary proceedings. The petitioner is before this Court challenging Ext.P5 on various grounds.

2. The learned counsel appearing for the petitioner vehemently contends that the Labour Court cannot extend the time limit. He submits that, going by the provisions of Section 17A of the I.D. Act, the award became enforceable within 30 days of publication. It is pointed out that the Interlocutory Application filed for extension of time was so filed beyond the period specified in Section 17A of the I.D. Act and therefore, it was not maintainable. It is submitted that,

when the award became enforceable in terms of the provisions contained in the I.D. Act, the Labour Court became *functus officio*. It is submitted that the petitioner has been continuously harassed by the management, and the Police had registered Crime No.573/2011 against the President of the Bank for offences punishable under Sections 294(b), 354, and 509 of the IPC on the complaint of the petitioner. It is submitted that the said case is now pending as C.C.No.1006/2012 on the file of the Judicial First Class Magistrate Court, Thiruvananthapuram. It is submitted that, though the petitioner raised objections to the maintainability of the Interlocutory Application for extension of time, the Labour Court failed to consider the legal aspects and extended the time for completion of disciplinary proceedings through the impugned order. It is submitted that the normal age of superannuation of the petitioner was 30.05.2025, and by the extension of time granted, the management was attempting to deny the petitioner her rightful claim for reinstatement. It is submitted that the petitioner has been unemployed from 2011 onwards, and the management has been acting to the prejudice of the petitioner intentionally and on account of *mala fides*. The learned counsel appearing for the petitioner placed reliance on the judgment of the

Supreme Court in ***Jammu Tehsil v. Hakumar Singh, (2006) 12 SCC 193*** to contend that since after the period of 30 days from the date of the publication of the award, the award has become enforceable, the Labour Court has become *functus officio* and could not have considered the application for extension of time.

3. *Per contra*, the learned counsel appearing for the respondent Management would submit that the question as to whether the Labour Court becomes *functus officio* within a period of 30 days from the date of publication of the award in terms of the provisions contained in Section 17 and 17A of the I.D. Act was considered by a three-judge bench of the Supreme Court in ***Haryana Suraj Malting Ltd. v. Phool Chand, (2018) 16 SCC 567***. It is submitted that in the said judgment, the Supreme Court has noticed the judgment in ***Jammu Tehsil*** *(supra)* and has taken the view that the Tribunal/Labour Court functioning under the provisions of the I.D. Act, had all incidental and ancillary powers and could entertain applications even beyond the period of 30 days and after the award became enforceable in terms of the provisions contained in Sections 17 and 17A of the I.D. Act. The learned counsel appearing for the management also placed reliance on the judgment of the Supreme

Court in ***Chinnamarkathian alias Muthu Gounder v. Ayyavoo alias Periana Gounder, (1982) 1 SCC 159****,* to contend that the Labour Court retains the power to extend the time, taking note of future events. It is submitted that, in the facts and circumstances of this case, there were sufficient reasons mentioned in the application for extension of time that would justify the grant of time. The learned counsel also relied on the judgment of the Supreme Court in ***Paul D.V v. Manisha Lalwani, (2010) 8 SCC 546****,* to contend that where sufficient cause is shown, every court retains the inherent jurisdiction to grant an extension of time.

4. Having heard the learned counsel appearing for the petitioner and the learned counsel appearing for the 1st respondent/management, I am of the view that the petitioner has not made out any ground for interference with Ext.P5 order of the Labour Court. The question is no longer *res integra* in view of the law laid down in ***Haryana Suraj Malting Ltd.*** *(supra),* where it was held (after considering the judgment in ***Jammu Tehsil*** *(supra),* on which considerable reliance was placed by the learned counsel for the petitioner) that even after the period of 30 days prescribed in Section 17A of the I.D Act, an application for setting aside an *ex parte* order

could be entertained by the Labour Court/Tribunal. It is no doubt true that in ***Haryana Suraj Malting Ltd.*** *(supra),* the Supreme Court was concerned only with the question as to whether the Labour Court/Tribunal can consider an application for setting aside an *ex parte* award after the award has become enforceable. However, I find no authority to hold that the jurisdiction of the Labour Court/Tribunal should be restricted to applications for setting aside the *ex parte* order. Such jurisdiction must, by necessary implication, extend to other matters even after the period of 30 days prescribed in Section 17A of the I.D Act.

5. Section 148 of the Code of Civil Procedure (hereinafter referred to as 'the Code') reads thus:

> *"148 Enlargement of time – Where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by this Code, the Court may, in its discretion, from time to time, enlarge such period not exceeding thirty days in total even though the period originally fixed or granted may have expired"*[1]

It is true that under Section 11 (3) of the I.D. Act, only certain provisions of the Code have been made applicable to the Labour Courts/Tribunals, and expressly, the provisions of Section 148 of the

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1*With effect from 01.07.2002 through the Code of Civil Procedure (Amendment) Act 1999 the group of words "not exceeding thirty days in total" have been inserted between the words "such period" and the word "even" in the original provision.*

Code have not been extended to Tribunals. In ***Vasakumar Pillai S. P. v. Motor Accidents Claims Tribunal and Others, 2008 (4) KLT 899***, this Court dealt with the question as to whether the Motor Accident Claims Tribunal could order attachment before judgment, given that the provisions of O.XXXVIII R.5 of the Code have not been specifically extended to the Motor Accident Claims Tribunal. In ***Vasakumar Pillai S. P.*** *(supra),* this Court referred to the following passage from the judgment of the Supreme Court in ***S. M. Banerji v. Sri Krishna Agarwal, AIR 1960 SC 368***:-

> *"12. .....Courts and Tribunals are constituted to do justice between the parties within the confines of statutory limitations and undue emphasis on technicalities or enlarging their scope would cramp their powers, diminish their effectiveness and defeat the very purpose for which they are constituted. ....."*

On a consideration of various precedents, including the judgment of Supreme Court in ***ITO v. M.K. Mohd. Kunhi, (1969) 71 ITR 815***, this Court in ***Vasakumar Pillai S. P.*** *(supra),* concluded that the power of attachment before judgment was a power available to the Motor Accident Claims Tribunal, although only enumerated provisions (that did not include O.XXXVIII R.5 of the Code) were specifically made applicable to the Motor Accident Claims Tribunal. On the same analogy, the Labour Courts/Tribunals could exercise the jurisdiction

under Section 148 of the Code to enlarge time when a time limit within which a certain act had to be done or completed was fixed in the award.

6. In ***Ganesh Prasad Sah Kesari v. Lakshmi Narayan Gupta, (1985) 3 SCC 53***, it was held:

> *"10. This construction also commends to us for the additional reason that where the court fixes a time to do a thing, the court always retains the power to extend the time for doing so. Section 148 of the Code of Civil Procedure provides that where any period is fixed or granted by the court for the doing of any act prescribed or allowed by the Code, the court may, in its discretion, from time to time, enlarge such period, even though the period originally fixed or granted may have expired. The principle of this section must govern in not whittling down the discretion conferred on the court."*

In ***Paul D.V*** *(supra),* it was held:

> *"26. Insofar as the first aspect is concerned Section 148 CPC, in our opinion, clearly reserves in favour of the court the power to enlarge the time required for doing an act prescribed or allowed by the Code of Civil Procedure. Section 148 of the Code may at this stage be extracted:*
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> *"....."*
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> *A plain reading of the above would show that when any period or time is granted by the court for doing any act, the court has the discretion from time to time to enlarge such period even if the time originally fixed or granted by the court has expired. It is evident from the language employed in the provision that the power given to the court is discretionary and intended to be exercised only to meet the ends of justice.*

27. Several decisions of this Court have explained the ambit and scope of the powers exercisable under Section 148 CPC. In Mahanth Ram Das v. Ganga Das, this Court observed: (AIR pp. 883-84, para 5)

> *"5. ... Section 148 of the Code, in terms, allows extension of time, even if the original period fixed has expired, and Section 149 is equally liberal. ..... Such procedural orders, though peremptory (conditional decrees apart) are, in essence, in terrorem, so that dilatory litigants might put themselves in order and avoid delay. They do not, however, completely estop a court from taking note of events and circumstances which happen within the time fixed. ..... Such orders are not like the law of the Medes and the Persians. Cases are known in which courts have moulded their practice to meet a situation such as this and to have restored a suit or proceeding, even though a final order had been passed."*

28. To the same effect is the decision of this Court in Chinnamarkathian v. Ayyavoo, where this Court declared that the scope and exercise of the jurisdiction to grant time to do a thing, in the absence of a specific provision to the contrary curtailing, denying or withholding such jurisdiction, the jurisdiction to grant time would inhere in its ambit the jurisdiction to extend time initially fixed by it. The Court also called in the principle of equity that when circumstances are to be taken into account for fixing a length of time within which a certain action is to be taken, the court retains to itself the jurisdiction to re-examine the alteration or modification which may necessitate extension of time.

29. The following passage from the decision in Chinnamarkathian case is apposite: (SCC p. 168, para 15)

> *"15. ... It is a well-accepted principle statutorily recognised in Section 148 of the Code of Civil Procedure that where a period is fixed or granted by the court for*

> *doing any act prescribed or allowed by the Code, the court may in its discretion from time to time enlarge such period even though the period originally fixed or granted may expire. If a court in exercise of the jurisdiction can grant time to do a thing, in the absence of a specific provision to the contrary curtailing, denying or withholding such jurisdiction, the jurisdiction to grant time would inhere in its ambit the jurisdiction to extend time initially fixed by it. Passing a composite order would be acting in disregard of the jurisdiction in that while granting time simultaneously the court denies to itself the jurisdiction to extend time. The principle of equity is that when some circumstances are to be taken into account for fixing a length of time within which a certain action is to be taken, the court retains to itself the jurisdiction to re-examine the alteration or modification of circumstances which may necessitate extension of time. If the court by its own act denies itself the jurisdiction to do so, it would be denying to itself the jurisdiction which in the absence of a negative provision, it undoubtedly enjoys."*

6. In ***Mahanth Ram Das v. Ganga Das, AIR 1961 SC 882***, the Supreme Court was considering whether the time for payment of Court Fee could be extended. It was held:

> *"5. .....Such procedural orders, though peremptory (conditional decrees apart) are, in essence, in terrorem, so that dilatory litigants might put themselves in order and avoid delay. They do not, however, completely estop a court from taking note of events and circumstances which happened within the time fixed. ....."*

In ***M.K. Mohd. Kunhi,*** *(supra),* while considering whether the Income Tax Tribunal would have the authority to grant a stay (pending

appeal) in the absence of any express provision, it was held:

> *"6. There can be no manner of doubt that by the provisions of the Act or the Income Tax Appellate Tribunal Rules, 1963 powers have not been expressly conferred upon the Appellate Tribunal to stay proceedings relating to the recovery of penalty or tax due from an assessee. .....It is a firmly established rule that an express grant of statutory power carries with it by necessary implication the authority to use all reasonable means to make such grant effective (Sutherland Statutory Construction, 3rd Edn., Articles 5401 and 5402). The powers which have been conferred by Section 254 on the Appellate Tribunal with widest possible amplitude must carry with them by necessary implication all powers and duties incidental and necessary to make the exercise of those powers fully effective. In Domat's Civil Law Cushing's Edn., Vol. 1 at p. 88, it has been stated:*
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> > *"It is the duty of the Judges to apply the laws, not only to what appears to be regulated by their express dispositions, but to all the cases where a just application of them may be made, and which appear to be comprehended either within the consequences that may be gathered from it."*
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> *7. Maxwell on Interpretation of Statutes, 11th Edn., contains a statement at p. 350 that "where an Act confers a jurisdiction, it impliedly also grants the power of doing all such acts, or employing such means, as are essentially necessary to its execution. Cui jurisdictio data est, ea quoqe concessa esse videntur, sine quibus jurisdictio explicari non potuit". An instance is given based on Ex parte Martin that "where an inferior court is empowered to grant an injunction, the power of punishing disobedience to it by commitment is impliedly conveyed by the enactment, for the power would be useless if it could not be enforced".*

In ***Liberty Footwear Company v. Force Footwear Company***

and Others, 2009 SCC OnLine Del 2983, the High Court of Delhi, while considering whether the Intellectual Property Appellate Board constituted under Section 83 of the Trade Marks Act, 1999, could allow an application for taking on record additional documents held:

> *"5. It is well settled that quasi judicial tribunals on procedural matters are entitled to adopt a procedure which they feel is just and fair. Unless there is a specific or implied bar or prohibition by the statute, a quasi judicial tribunal has flexibility and can follow procedure, which is fair and compliant with the principles of natural justice. Every procedure is acceptable and permissible until it is shown to be prohibited by law (See, Hansraj Harjiwan Bhate v. Emperor, AIR 1940 Nag 390 following Narasingh Das v. Mangal Dubey, ILR (1882) 5 All 583)."*

In the light of the law laid down in the aforesaid judgments and in the absence of any express provision in the I.D. Act prohibiting the extension of time after the period of 30 days from the date of the publication of the award, I must hold that such power is always available to the Labour Court/Tribunal functioning under the provisions of the I.D. Act.

Therefore, the petitioner is not entitled to any relief in this Writ Petition. The writ petition fails, and it is accordingly dismissed.

sd/-
GOPINATH. P
JUDGE

acd

APPENDIX OF WP(C) NO. 25229 OF 2024

PETITIONER EXHIBITS

Exhibit P1	**TRUE COPY OF THE PRELIMINARY ORDER DATED 24.03.2023 PASSED BY THE 2ND RESPONDENT IN I.D NO. 9/2019.**
Exhibit P2	**TRUE COPY OF THE AWARD DATED 29.09.2023 PASSED BY THE 2ND RESPONDENT IN I.D NO. 9/2019.**
Exhibit P3	**TRUE COPY OF THE AFFIDAVIT AND PETITION DATED 18.03.2024 IN I.A NO. 21/2024 IN I.D NO. 9/2019 FILED BEFORE THE 2ND RESPONDENT**
Exhibit P4	**TRUE COPY OF THE OBJECTION PETITION DATED 13.06.2024 IN I.A NO. 21/2024 IN I.D NO. 9/2019 FILED BEFORE THE 2ND RESPONDENT**
Exhibit P5	**TRUE COPY OF THE ORDER DATED 28.06.2024 IN I.A NO. 21/2024 IN I.D NO. 9/2019 PASSED BY THE 2ND RESPONDENT.**

RESPONDENT EXHIBITS

Exhibit R1(a)	**A true copy of the charge memo dated 24.02.2024 issued by Respondent No.1 to the petitioner**
Exhibit R1(b)	**A true copy of the undated communication issued by the Petitioner to Respondent No.1**