

**(2008) 09 KL CK 0033**

**High Court Of Kerala**

**Case No:** Writ Petition (C) No. 21220 of 2008-A

Thulasi Devi B.

APPELLANT

Vs

Kerala State Co-op. Employees  
Pension Board and Others

RESPONDENT

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**Date of Decision:** Sept. 30, 2008

**Citation:** (2008) 3 KLJ 661 : (2008) 4 KLT 647

**Hon'ble Judges:** Thottathil B. Radhakrishnan, J

**Bench:** Single Bench

**Advocate:** Jawahar Jose, for the Appellant; P.V. Mohanan (SC, K.ST. Co. Op. Emp. Pension), Suresh Kumar Kodoth and K.C. Santhoshkumar (GP), for the Respondent

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### **Judgement**

Thottathil B. Radhakrishnan, J.

The petitioner's late husband, Sri. Hariharan Nair, was an employee of the second respondent. On 11-12-2006, the second respondent forwarded the application of the petitioner for family pension to the Pension Board. On verification, the Board concluded that after the remittance of Rs. 76,066/- as on 5-1-2004, a further amount of Rs. 46,639/- was due from the second respondent towards pension fund as on 30-11-2007. It is on account of non-payment of that amount that the petitioner is unable to draw her family pension. The petitioner is a widow of a pensioner who had contributed 28 years of service to the second respondent. The only plea of the second respondent is that its financial status is such that it is unable to make the contribution as of now.

2. The Kerala State Co-operative Employees' Pension Scheme is formulated and the Board is constituted to give a social security support measure for the employees of the co-operative sector. What is being paid is pension. Inability to pay, is no answer in a matter relating to pension. A survey of the provisions of the Pension Scheme in the backdrop of the objects sought to be achieved by the Act and the concept of socialism embodied in the Constitution of India, would show that pension is a social security measure. Non-payment of the contribution by an employer is not a ground

on which the Pension Board can delay the payment of pension.

3. Not only that, any delay in making the remittance results in interest at 24% getting added on and still further, the liability to face revenue recovery proceedings. The provision for recovery with 24% interest and the authority to initiate revenue recovery proceedings are sufficient tools in the hands of the Pension Board to reach at those employers who do not pay in terms of the Scheme. In the aforesaid scenario, I do not find any ground to hold the defence of deficiency of funds with the employer, as a plea to further delay payment of family pension to the petitioner. Further, the petitioner cannot be compelled to pay any amount into the Pension Board, as sought for by the second respondent by the issuance of Ext.P2.

For the foregoing reasons, this writ petition is ordered directing that the family pension due to the petitioner shall be released within one month and the entire arrears due on that account shall be released within two months from now. The second respondent shall pay the entire arrears to the Pension Board within two months from now failing which the Board shall take immediate prompt action for recovery of the outstandings due from the second respondent to it. No costs.