

**BEFORE THE KERALA STATE HUMAN RIGHTS COMMISSION, THIRUVANANTHAPURAM**

**Present: Mr.Justice N.Dhinakar,  
Hon'ble Chairperson**

Dated this the 17<sup>th</sup> December, 2007.

H.R.M.P.No.443/07

Petitioners : S.Murukesan,  
Works Assistant,  
Kerala State Audio Visual &  
Reprographic Centre,  
Thiruvananthapuram.  
And 28 others.

Respondent :

INTERIM ORDER

Petitioners 1 and 2 are present. Advocate P.V.Sunil Kumar is also present and files Vakalath on behalf of the Managing Director, Kerala State Audio Visual and Reprographic Centre.

He seeks some time and also submits that there is every likelihood of settlement and that he is taking efforts to settle the matter amicably.

Taking into consideration the facts and circumstances of the case the petition is adjourned to a future date which will be intimated to the petitioners 1 and 2 and the Managing Director, Kerala State Audio Visual and Reprographic Centre.

Justice N.Dhinakar,  
Chairperson.

**BEFORE THE KERALA STATE HUMAN RIGHTS COMMISSION, THIRUVANANTHAPURAM**

**Present: Mr.Justice N.Dhinakar,  
Hon'ble Chairperson**

Dated this the 2<sup>nd</sup> May 2008.

H.R.M.P.No.443/07

Petitioners : S.Murukesan,  
Works Assistant,  
Kerala State Audio Visual &  
Reprographic Centre,  
Thiruvananthapuram.  
And 28 others.

Respondent :

INTERIM ORDER - II

First petitioner S.Murukesan and second petitioner G.Gopakuma are present. Neither the Managing Director (MD), Kerala State Audio Visual and Reprographic Centre (KSAVRC) nor his advocate is present.

The petitioners 1 and 2 submit that they have filed a petition to the M D, KSAVRC on 28-4-2008 with regard to the dispute mentioned in the HRMP.

As the MD is absent I feel another opportunity can be given and accordingly the petition is adjourned to a future date, which will be intimated to both sides.

Justice N.Dhinakar,  
Chairperson.

**BEFORE THE KERALA STATE HUMAN RIGHTS COMMISSION, THIRUVANANTHAPURAM**

**Present: Mr.Justice N.Dhinakar,  
Hon'ble Chairperson**

Dated this the 6<sup>th</sup> October, 2008.

H.R.M.P.No.443/07

Petitioners : S.Murukesan,  
Works Assistant,  
Kerala State Audio Visual &  
Reprographic Centre,  
Thiruvananthapuram.  
And 28 others.

Respondent :

ORDER

The above petition was filed by 29 persons, employees of the Kerala State Audio-Visual and Reprographic Centre, Thiruvananthapuram, and their complaint was that though the management deducted the Life Insurance Corporation (LIC) Premium from their salaries the same was not remitted with the LIC of India. According to them, they received a notice from the LIC of India about the non-payment of the premium towards their policies though the management deducted the premium from their salaries.

A report was called for from the Managing Director (MD), Kerala State Audio-Visual and Reprographic Centre (KSAVRC). In the report dated 14-3-2007, submitted by the MD, it was stated that on account of losses there was deterioration in the functioning of the Centre during the year 2000-01 which resulted in financial crisis leading to non-payment of salary for several months and non-remittance of premium to LIC of India from March 2004 onwards. It was also stated in the report that Dr.Sukesh Kumar, the then M.D. wrote a letter on 7-6-2006 to the Senior Divisional Manager, LIC

of India requesting to allow them to pay part of the payment of the premium dues from March 2004 to February 2006 since the Centre is not in a position to remit the dues all of a sudden and later followed it up with LIC authorities by discussing the situation. According to the report, a new M.D. was appointed with effect from 28-8-2006 and the entire activities of the Centre are being streamlined. It was also stated that the payments were due as arrears of salary of retrenched and serving employees, payments to creditors against purchases made by the Centre, rents payable at various places etc; and that there were many court orders directing the Centre to effect these payments.

According to the report, the Centre is taking earnest efforts to pay all the dues including dues to EPF, LIC , etc;. According to the said report, the Centre is now getting sufficient work from various clients and had given details as to the functioning of the Centre under the new M.D. According to the report, Rs.21,06,360/- (Rupees Twenty one lakh six thousand three hundred and sixty only) is to be paid towards the premium due of all employees and as it is difficult to make one time payment of the above amount with penalty a sum of Rs.2,45,728/- (Rupees Two lakh forty five thousand seven hundred twenty eight only) in the head of LIC was deposited in the Fort Branch of State Bank of Travancore. According to the report, many of the employees paid premium dues by themselves and the Centre paid premium dues to one of the employees namely; Vanaja Kumari on her application due to illness and that in the case of others the amounts will be refunded in due course of time. The report concluded by stating that Centre is approaching the Government for financial assistance for settling the liabilities and ended with an assurance that the entire amount of LIC premium dues will be repaid either in lump or as decided by the LIC authorities.

Later surprisingly another report dated 25-4-2007 was received from the M.D, KSAVRC stating that the Centre has not deducted any amount from the salary as alleged in the petition filed by the petitioners. It was further stated that the Centre could only pay minimum take home salary ( I am unable to understand as to what is meant by minimum take home salary and so also the three officers present from the Centre today are unable to explain the concept of “minimum take home salary”). According to the report, as there was no deduction there cannot be any diversion of funds for other purposes and that later as the financial condition of the Centre was improved deductions were made from the salary of the employees but the LIC authorities refused to accept the amount and insisted full payment of the entire arrears which comes to more than Rs.20 lakh and that the Centre is not in a position to pay such a huge amount immediately. According to the above report, LIC premium deducted is being deposited in a separate Bank account and the insurance policy will not in any way bind the Centre and that the Centre has consented to deduct the LIC premium from the salary of the employees and that will not create any liability on the Centre. The above report dated 25-4-2007 concluded by stating that the said report may be taken as an additional report to the earlier report dated 14-3-2007.

Later on 15-12-2007 another report was filed by the M.D. in which it was stated that the LIC authorities refused to accept the proposal of the M.D. to remit the LIC premium dues of the employees in five or six installments and that the Centre was directed to inform the employees to convert the policy to direct mode of payment. In the report it was further stated that the Centre made a request to the Zonal Manager, LIC of India, Chennai by letter dated 10-4-2007 to consider their plea to pay the premium dues

in installments. According to the report, out of 29 persons who have filed the above complaint 21 employees have given written request for refund and the remaining 8 employees have not given the request for refunding of the LIC premium amounts and the same will be refunded to them as and when the request is received. The report dated 15-12-2007 concluded by stating that the same also shall be treated as additional report to the earlier reports filed by the Centre.

First petitioner Murukesan was present. Joe Joseph, Programme Officer, Krishna.G, Accounts Officer in-charge, and Zeenath Beegum, Junior Accountant representing the Centre were also present. It was admitted by the Centre, through the above three representatives, that the Centre used to deduct premium amounts towards LIC policies of the employees and remit the amounts with LIC authorities. According to them, on account of certain financial constraints the salaries of the employees were not paid and premium amounts were also not paid to the LIC towards the premium amounts of the employees. They submit that out of 29 employees who have filed this petition 16 persons settled the dispute with the Centre and with regard to the balance 13 persons the Centre has remitted the premium amounts with late fee on 25-3-2008 and on 23-5-2008. According to them, the salaries of the employees working in the Head Office are also being paid and the Centre has stopped the system of deducting the premium of LIC policies of employees from their salaries and the employees are left to pay the premium by themselves. According to the officials representing the Centre, the Centre is yet to take a decision as regards to the arrears of payment of salary of employees and proposal is made for the payment of arrears of salary to all employees and the arrears will be paid as expeditiously as possible and without deducting the late fee paid by the center to the

LIC on account of the fault of the Centre in not paying the LIC premium dues in time for which no employee is responsible. I recorded the said submission made on behalf of the Centre by its officials.

In the report dated 25-4-2007 submitted by the M.D. it was stated that the averments in the petition will not show any violation of human rights. This stand is to be stated only to be rejected. The Protection of Human Rights Act, 1993 has been enacted to provide for better protection of human rights and for matters connected therewith or incidental thereto. The Statement of Objects and Reasons notes that the human rights embodied in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, adopted by the General Assembly of the United Nations on 16-12-1966, stands substantially protected by the Constitution of India. However, there has been growing concern in the country and abroad about issues relating to human rights. Having regard to this, changing social realities and emerging trends in the nature of crime and violence, the Government has been reviewing the existing laws, procedures and system of administration of justice, with a view to bringing about greater accountability and transparency in them, and devising efficient and effective methods of dealing with the situation. Taking into account the views of all concerned, the Act was enacted. "Human Rights" mean the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India [Section 2 (1) (d)]. "International Covenants" mean the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on 16-12-1966

[Section (2) (1) (f)]. The functions and powers of the Human Rights Commission have been set out in Part III of the Act. Section 12 thereof, inter alia, provides that the Commission shall have power to review the safeguards provided by or under the Constitution or any other law for the time being in force for the protection of human rights and recommend measures for their effective implementation.[ Vide People's Union For Civil Liberties Vs Union of India and Another in (2005) 2 Supreme Court Cases 436.]

The Centre took the above untenable stand by not realizing that every citizen in this Country has a right to acquire and possess property and property includes money, which includes valuable security. Valuable security, according to the Indian Penal Code (IPC), is 'a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.' The above definition, therefore, shows that a policy issued by the LIC of India is a valuable security under which a legal right is created in favour of the policy holder and a liability is created on the part of the LIC authorities to pay the assured sum covered by the policy in the event of its maturity or on the death of the person who was insured. The policy issued by the LIC of India is a valuable security and hence a movable property falling within the definition of Section 22 of the IPC. The Centre by not paying the premium amounts deducted from the salaries of the employees to the LIC authorities have taken away the valuable rights of the employees of keeping their policies live and almost created a situation where the policies would have lapsed leading to loss of the sum assured. Right to life includes right to live with dignity and it will be the aspiration of



every individual to live as such and therefore, takes up an employment to earn not only for himself but also for his dependants and towards that end some of the citizens contribute premium towards the LIC policies which they take with a view to protect and give a dignified life to their dependants even after their death. The person who takes an insurance policy takes it with that object in mind and if any organization, like the respondent Centre in this petition, defeats the said purpose then there can be no doubt that the said organization violates the human rights of the person by not only taking away the right of that person to get the amount after the policy gets matured but also denies the dependants the right to lead a dignified life in the event of death of the policy holder. Though the Centre in its report dated 25-4-2007 stated that the insurance policies will not in any way bind the Centre but not denied the fact that the Centre deducted the LIC premiums from the salaries of the employees. It also did not offer any explanation for not paying the amount so deducted and it cannot be in the mouth of the Centre to state that on account of financial constraints the deducted premium towards the LIC Policies were not deposited. The Centre totally forgot that having deducted the LIC premiums from the salaries of the employees is duty bound to deposit the same with the LIC authorities and to say that it will not create any liability on the Centre is untenable in law and facts. Therefore, I am unable to accept with the contention of the respondent Centre raised in the report dated 25-4-2007 which was not raised in the first report filed by the Centre on 14-3-2007.

In fact, all the three reports dated 14-3-2007, 25-4-2007 and 15-12-2007 definitely indicate that the Centre failed to pay the premium amounts of the employees towards their LIC policies though the Centre promised the employees that they will

deduct the dues from their salaries and pay the said amounts to the LIC authorities towards their LIC premium. In any event, the Centre having paid the dues to the LIC authorities and having given an under taking that they will pay the arrears of salaries to the employees as expeditiously as possible without deducting the late fee paid by the center to the LIC of India the petition is closed with the direction to the Kerala State Audio-Visual and Reprographic Centre to keep up the promise made by it to me.

Justice N.Dhinakar,  
Chairperson.

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