



GOVERNMENT OF KERALA

Abstract

Industries Department- LAR cases in respect of M/s Kerala Minerals and Metals Limited - dispute for advocate fee - Common Judgment of the Hon'ble High Court in WP(C) No.22026 of 2008 & WP(C) No .17555/2009 filed by Sri.K.Velappan Pillai (Late) and Sri.Y.Abdul Azeez - Complied- Orders issued.

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INDUSTRIES (H) DEPARTMENT

G.O.(Rt)No.512/2022/ID Dated,Thiruvananthapuram, 31-05-2022

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- Read:-
1. G.O.(Rt) No.1155/79/ID dated 12.10.1979.
  2. G.O. (Rt)No.1006/2002/ID dated 8-11-2002
  3. Letter dated 22/11/2002 from Sri.K.Velappan Pillai
  4. Government letter No.12556/H3/2003/ID dated 24/4/2003
  5. Letter dated 5/6/2003 from the District Collector, Kollam addressed to Adv. Velappan Pillai & Adv.Y. Abdul Azeez
  6. Order dated 25/6/2008 in I.A.186/2008 in L.A.R.100/01, L.A.R 124/01, LAR 128/01, L.A.R.107/01 and L.A.R.128/01.
  7. Letter No.F8-29343/08 dated 23/10/2008 from the District Collector, Kollam.
  8. Letters No.TP/PD/L-16/08 dated 14/11/2008 & TP/PD/L-16/09 dated 14/01/2009 TP/PD/L-16/22 dated 6/5/2022 from the Managing Director, Kerala Minerals and Metals Limited, Kollam
  9. GO(Rt) No.423/2009/ID dated 30.03.2009
  10. Judgment of Hon'ble High Court dated 23/9/2021 in WP(C) No.22026 of 2008 & WP(C) No .17555/2009 filed by Adv. Velappan Pillai (Late) and Adv. Abdul Azeez
  11. Letter dated 28/10/2021 from Adv.Y. Abdul Azeez

12. Hearing Notice No.H3/368/21/ID dated 7/2/2022
13. Government letter No.H3/368/21/ID dated 7/2/2022,1/3/2022 10/4/2022 & 26/4/2022 addressed to Sheristadar, Sub Court, Kollam.
14. Hearing Notice dated 26/4/2022 issued to Adv. Abdul Azeez, Sri. Jayakumar, Smt. Usha Krishnan
15. Hearing Notices dated 5/5/2022 & 11/5/2022 issued to Sri. Jayakumar, Smt. Usha Krishnan.

### ORDER

As per the Government Order read as 1<sup>st</sup> Paper above, Sri.K. Velappan Pillai was appointed as Special Government Pleader to conduct Land Acquisition Reference Cases (LAR cases) in connection with the acquisition of land for Kerala Minerals and Metals Limited. As per the Government Order read as 2<sup>nd</sup> Paper above Sri.Y.Abdul Azeez was appointed as Special Government Pleader in place of Sri.K.Velappan Pillai. As per the letter read as 3<sup>rd</sup> paper above, Sri.K. Velappan Pillai requested Government to permit him to conduct all the pending cases in the Sub Court , Kollam which had been attended by him and to entrust Sri. Y.Abdul Azeez to conduct fresh cases arising in future. As per the letter read as 4<sup>th</sup> paper above, Government had directed the Managing Director, KMML to handle the issue by the company itself and to inform the matter to the District Collector.

2. Sri. K.Velappan Pillai filed IA No.186/2008 before the Hon'ble Sub Court, Kollam with a prayer to permit him to conduct 153 cases which he had appeared as Special Government Pleader before the Hon'ble Sub Court, Kollam. The Hon'ble Sub Court, Kollam as per the order read as 6<sup>th</sup> paper above ordered that the petitioner Sri.K.Velappan Pillai is not entitled to represent the State in the 153 LAR cases pertaining to acquisition of lands for the KMML pending at the time of Ext.A3 order, the order by which Sri.Y. Abul Azeez was appointed as Special Government Pleader. Against the order of the Hon'ble Sub Court, Sri.K.Velappan Pillai filed WP(C) 22026/2008 before the Hon'ble High Court of Kerala. The Law Secretary filed statement in WP(C) 22026/2008 before the Hon'ble High Court of Kerala with the fact that Sri.Y.Abdul Azeez appointed in the place of Sri.K.Velappan Pillai have to be construed to mean that with the appointment of Sri.Y.Abdul Azeez, the appointment of Sri K Velappan Pillai stands terminated

and the intention of the Government is that Sri.Y.Abdul Azeez would represent the State of Kerala in the place of Sri.K.Velappan Pillai. The District Collector, Kollam issued order to the Special Tahsildar (LA) to take immediate possession of all case files and connected documents relating to 153 LAR cases, with EP cases and to handover the same to Sri.Y. Abdul Azeez.

3. Government, as per G.O read as 9<sup>th</sup> paper above had terminated the engagement of Sri.Y.Abdul Azeez as Special Govt. Pleader and appointed Sri. K.Velappan Pillai, as the Special Govt. Pleader. Against the said order Sri.Y.Abdul Azeez filed WP(C) No.17555/2009 before the Hon'ble High Court. In the meanwhile Sri. K. Velappan Pillai expired during the year 2015 and his legal heirs were impleaded as Additional Respondents 5 and 6 in WPC 17555/2009.

4. The Hon'ble High Court as per judgment read as 10<sup>th</sup> paper above disposed of the Writ Petitions, WP(C) 22026/2008 & WP(C) 17555/2009, by a common judgment dated 23.09.2021, with the following direction to the 1st respondent:

- a. The first respondent is directed to hear the petitioner in W.P.(C.) No.17555/2009 and the legal heirs of the deceased 2<sup>nd</sup> respondent, who are the additional 5<sup>th</sup> and 6<sup>th</sup> respondents in W.P.(C.) No.17555/2009 about the entitlement of advocate fee for the appearance in the Land Acquisition Reference cases disposed of by the Sub Court, Kollam, in which the 4<sup>th</sup> respondent is the requisitioning authority (KMML), The first respondent will hear the version of the 4<sup>th</sup> respondent also at the time of the hearing.
- b. The 1<sup>st</sup> respondent can summon the decree of the cases from the authorities to find out, who appeared in these cases. The petitioner and the legal heirs of the deceased 2<sup>nd</sup> respondent can also supply documents to substantiate their case.
- c. Based on the hearing, the 1<sup>st</sup> respondent will decide the entitlement of the advocate fee by the petitioner in WP(C)No.17555/2009 and the deceased 1<sup>st</sup> petitioner in W.P.(C.).No.22026/08.
- d. Based on the above decision, the 1<sup>st</sup> respondent will order payment of the advocate fee to the eligible person . At this stage, the 1<sup>st</sup> respondent will consider the case of KMML about the payment already made as advocate fee and adjust that amount also, while passing final orders.

5. In this connection the following points were considered and examined before arriving a reasonable conclusion on the issue:-

- i. The total number of LAR cases.
- ii. The LAR cases disposed till 08.11.2002.
- iii. The payment made to Sri.K.Velappan Pillai till 08.11.2002.
- iv. The number of cases in which Sri.K.Velappan Pillai represented before the Sub Court and the number of cases disposed by the Hon'ble Court between 08.11.2002 to 30.03.2009.
- v. The proportion of role played by Sri.K.Velappan Pillai and Sri.Y.Abdul Azeez in conducting LAR cases.
- vi. The eligible advocate fee as per the relevant rules prevailed.

6. The Hearing Officer, Additional Secretary, Industries Department verified the records submitted by Sri.Y.Abdul Azeez as per letter read as 11th paper above. The 4<sup>th</sup> respondent, the requisitioning authority, Managing Director, Kerala Minerals and Metals Limited was heard on 14.02.2022. He submitted certain relevant details regarding the case at the time of hearing and thereafter also. He has reported that there are a total of 153 LAR cases and out of this 137 LAR cases were disposed. The final settlement amount for the 137 cases including court fee comes to Rs.2,36,77,728/- and the amount has been paid to District Legal Service Authority by means of cheque. He has also reported that Sri.K.Velappan Pillai had submitted written statement in all the 153 LAR cases before 08.11.2002 and an amount of Rs.3.06 Lakhs (Rs.2000 per case,  $2000 \times 153 = 3.06$  Lakhs) has already been paid to Sri.K.Velappan Pillai (As per Rule 14(5)(i) of Rules on Advocate Fee, the fee eligible in an LAR cases is Rs.3,000/-).

7. However on further verification it has been found that Sri.K.Velappan Pillai has been entrusted to appear in all the pending LAR cases on behalf of Kerala Minerals and Metals Limited as additional Respondent and the company paid Rs.2,500/- each in 150 LAR cases by means of Cheque to Sri.K.Velappan Pillai in this regard. Hence the Managing Director, Kerala Minerals and Metals Limited was directed to report whether Sri.K.Velappan Pillai was appointed as Additional Respondent by Kerala Minerals and Metals Limited and also whether the total sum paid to Sri.K.Velappan Pillai was the remuneration for the service rendered by him as Additional Respondent or in the capacity as Special Government Pleader.

8. The Managing Director, Kerala Minerals and Metals Limited as per letter read as 8th paper above reported that the advance already paid by the Company to Sri.K.Velappan Pillai is not Advocate Fee but the remuneration which was

allowed on the basis of the service done by Sri.Velappan Pillai, in his capacity as Additional Respondent on behalf of the Company.

9. Sri.Y.Abdul Azeez attended the hearing held on 04.05.2022 at 11.00 AM. The 5<sup>th</sup> and 6<sup>th</sup> respondent were absent. Sri.Y. Abdul Azeez presented list of all the 115 LAR cases in which judgment pronounced and decreed and the bills submitted to Kerala Minerals and Metals Limited for the payment of Advocate Fee. Out of the 115 cases, copy of judgment and decree in LAR 7/2002 (item 99) was not available. In LAR 21/02 (item 106) the connected bill was not available. Petitioner stated that Kerala Minerals and Metals Limited neither paid the Advocate Fee nor responded to his request.

10. In this regard it is seen that the question of payment of Advocate Fee comes only on filing application for the same before the competent authority. Sri. Abdul Azeez stated that Sri.K.Velappan Pillai has neither filed application nor submitted bill for remuneration and that Sri.K.Velappan Pillai has filed only vakkalath on behalf of KMML and not Appearance Memo as per Order 3 Rule 6 of CPC. If Sri.K.Velappan Pillai has any intention to appear on behalf of Government as Special Government Pleader he would have filed Appearance Memo before the Hon'ble Sub Court, Kollam. Therefore Sri.K.Velappan Pillai is entitled to claim only the fee for Additional Respondent from Kerala Minerals and Metals Limited.

11. Sri.Y.Abdul Azeez also reported that during 2007, the Advocate Fee of Government Law Officers has been revised and enhanced to Rs.7,500/- from Rs.3,000/- and accordingly he has requested to allow advocate fee at the enhanced rate.

12. The Sheristadar, Hon'ble Sub Court, Kollam was requested to inform the details of the Government Pleaders who represented the Kerala Minerals and Metals Limited in Land Acquisition Reference (LAR) cases. But the required details were not received from the Hon'ble Court. However Sri.Y.Abdul Azeez has furnished copies of the judgments and decrees in 113 cases, which contain the details requested from the Hon'ble Court.

13. Since the 5<sup>th</sup> & 6<sup>th</sup> respondents did not turn up for the hearing conducted on 04.05.2022, further hearings were scheduled on 10.05.2022 and 17.05.2022. But they neither turned up for the hearing nor furnished any reply in this regard. Hence it is obviously presumed that they have nothing to furnish to prove their

case, if any.

14. In this connection it is also seen that as directed by Hon'ble High Court, the Advocate General intervened in the dispute. However, the Advocate General reported before Hon'ble Court that an amicable settlement of the issue between the parties is not possible. The Hon'ble High Court also referred the issue before the Ernakulam Mediation Centre. But the mediation also failed. One of the parties; Sri. Abdul Azeez has reported that he has wholeheartedly participated in those two attempts for the settlement of dispute based on the direction of the Hon'ble High Court.

15. Sri.K.Velappan Pillai is entitled to claim only the fee for the service rendered as Additional Respondent in respect of M/s.KMML Ltd., for which he had filed vakalath before the Hon'ble Sub Court. Also Sri.K.Velappan Pillai has not filed Appearance Memo as per Order 3 Rule 6 of CPC for appearing on behalf of Government as Special Government Pleader. Moreover in all the LAR cases, the judgment, decree along with copy of bill presented by Sri.Y.Abdul Azeez during the hearing, the Hon'ble Court has mentioned the name of Sri.Y.Abdul Azeez as Special Government Pleader. The Managing Director, Kerala Minerals and Metals Limited has not made any statement with regard to the payment made to Sri.Y.Abdul Azeez so far. The company has also not produced any documentary evidence to prove that any amount as Advocate Fee has been paid to Sri.Y.Abdul Azeez. In the circumstances, the question of apportionment of Advocate Fee does not arise at all. The Hearing Officer has also taken into account the report submitted by the Law Secretary before the Hon'ble Court while examining this case.

16. On the basis of the hearing conducted and documents produced it can be seen that no remuneration as Advocate Fee has been paid to Sri. Abdul Azeez by M/S Kerala Minerals and Metals Limited so far. The amount of Rs.3.06 Lakhs paid by the company to Sri.K.Velappan Pillai is for the service rendered by him in his capacity as Additional Respondent.

17. Sri.Y.Abdul Azeez, the petitioner has submitted the copies of the judgments and decrees along with the bills submitted to Kerala Minerals and Metals Limited for the eligible Advocate Fee for 113 LAR cases and in all the above LAR cases the Hon'ble Court has mentioned the name of Sri.Abdul Azees as Special Government Pleader. Also judgment is seen pronounced in these LAR cases after 2002 and especially during the year 2008-2009.

18. In view of the above facts stated above Sri.Y. Abdul Azeez is eligible to get Advocate Fee of Rs. 3,39,000/ for 113 LAR cases,  $113 \times 3000 = 3,39,000/-$  (Rs.3,39,000/-) from the Kerala Minerals and Metals Limited.

19. In the circumstance, Government are pleased to order that the Managing Director, Kerala Minerals and Metals Limited shall pay the advocate fee to Sri.Y.Abdul Azeez for the 113 LAR cases ( for which he had preferred bill and produced copy of Judgment & Decree of the Hon'ble Sub Court, Kollam) at Rs.3000/- per case amounting to a total of Rs.3,39,000/- (Rupees Three Lakh Thirty Nine Thousand Only). Hence the direction of the Hon'ble High Court in Judgment dated 23/9/2021 in WP(C) No.22026 of 2008 & WP(C) No .17555/2009 filed by Adv. Velappan Pillai (Late) and Adv. Abdul Azeez is also complied with.

(By order of the Governor)  
ASOKAN K  
ADDITIONAL SECRETARY

To:

The Advocate General, Ernakulam (With C/L)

The District Collector, Kollam

The Managing Director, Kerala Minerals and Metals Limited, Chavara, Kollam.

Sri. Y.Abdul Azeez, Zam Zam, Thevally P.O, Kollam.

Sri. V. Jayakumar, Saroj, Thevally P.O, Kollam.

Smt. Usha Krishnan, Saroj, Thevally P.O, Kollam.

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The Chief Executive Officer, K-Bip, Thiruvananthapuram

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