

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.K.MOHANAN
&
THE HONOURABLE MR. JUSTICE P.D.RAJAN

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

RP.No. 1256 of 2008 (S) IN Con.Case(C) .1679/2004

AGAINST THE JUDGMENT IN Con.Case(C) 1679/2004 of
HIGH COURT OF KERALA DATED 28-03-2006

REVIEW PETITIONER(S)/PETITIONER::

V.I.JAYAPRASAD
ROUTE MANAGER, VALASSERIL VEEDU, THIRUMARADY
VILLAGE, MANATHOOR P.O., MOOVATTUPUZHA.

BY ADVS.SRI.RENJITH B.MARAR
SRI.L.RAJESH NARAYAN

RESPONDENT(S)/RESPONDENTS::

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1. BABU JACOB IAS, CHIEF SECRETARY TO GOVT
(AGE & FATHER'S NAME NOT KNOWN TO THE PETITIONER),
SECRETARIAT, THIRUVANANTHAPURAM.
 2. SAJAN PETER IAS, (AGE AND FATHER'S
NAME NOT KNOWN TO THE PETITIONER), SECRETARY
TO GOVERNMENT, TAXES DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM.
 3. DINESH SHARMA IAS, (AGE AND FATHER'S
NAME NOT KNOWN TO THE PETITIONER), EXCISE
COMMISSIONER, THIRUVANANTHAPURAM.
 4. C.U.MONI, (AGE AND FATHER'S NAME NOT
KNOWN TO THE PETITIONER), CHIEF WELFARE FUND
INSPECTOR, ABKARI WELFARE FUND BOARD
THIRUVANANTHAPURAM.
 5. T.P.SENKUMAR IAS, (AGE & FATHER'S
NAME NOT KNOWN TO THE PETITIONER), MANAGING DIRECTOR
KERALA STATE BEVERAGES CORPORATION,
THIRUVANANTHAPURAM.

BY SRI.MILLU DANDAPANI

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON
21-01-2015, ALONG WITH W.A.NO.1749/09, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

RP.No. 1256 of 2008 (S) IN
Con.Case(C).1679/2004

APPENDIX

REVIEW PETITIONER'S EXHIBITS:

ANNEXURE A : TRUE COPY OF THE G.O.(Rt.)81/2002/TD DATED 20.2.2002

ANNEXURE B : CERTIFIED COPY OF THE ORDER DATED 28.3.2006 IN CON.CASE
NO.1679 OF 2004.

ANNEXURE C : TRUE COPY OF THE ORDER DATED 31.10.2006 IN CONTEMPT
APPEAL NO.5/06.

RESPONDENTS' EXHIBITS :

NIL

//TRUE COPY//

P.A.to Judge

ami/

V.K.MOHANAN & P.D.RAJAN, JJ.

R.P.No.1256/08 and W.A.No.1749/09

Dated this the 21st day of January, 2015.

J U D G M E N T

Mohanana, J.

The above writ appeal is directed against the judgment dated 31.5.2007 in W.P.(C) No.16614/07, since the learned Single Judge dismissed the same and thereby rejected the prayer of the appellant to quash Exts.P4, P5, P9 and P10 and also declined the request of the appellant/petitioner to command respondents to appoint him in any of the existing vacancy under the Kerala State Beverages Corporation/the 5th respondent therein. The above review petition is filed seeking review of the judgment in the above writ petition, which is under challenge in the above writ appeal. As both the writ appeal and review petition are arising out of the very same judgment, these matters are heard together.

2. The petitioner is a displaced Abkari employee and on barring the sale of arrack in the State, as a rehabilitation

scheme, the Government has promulgated Ext.P2. However, according to the petitioner, the petitioner's application for appointing him in any of the existing vacancy under the 5th respondent Corporation was declined without applying mind and accordingly Exts.P8 and P9 proceedings are issued. It is the above orders, which are mainly challenged before the learned Single Judge in the above referred writ petition. Aggrieved by the judgment of the learned Single Judge, the petitioner therein preferred this writ appeal.

3. We heard Sri.L.Rajesh Narayan Iyer, the learned counsel for the appellant, the learned Government Pleader and Sri.Roy Chacko, the learned counsel appearing for the 4th respondent.

4. During the course of argument, both the counsel appearing for the appellant as well as the 4th respondent brought to our notice that, after the impugned judgment, another learned Single Judge of this Court, in a similar situation and on identical facts and circumstances, passed a judgment dated 3.4.2009 in W.P.(C)No.26878/07, whereby

the learned Judge passed the following orders :

"13. As I have stated earlier the modification of Ext.P1 order by Ext.P2 order denying employment to unemployed abkari workers cannot be justified. Government shall reconsider Ext.P2 order to the extent of denying the benefits conferred on a larger group of beneficiaries by Ext.P1 order. Government may consider that the 25% of the future vacancies shall be filled up by the beneficiaries under Ext.P1 order who are none other than the abkari workers. For the said purpose, it is open to the government to modify Ext.P2 Government order so that the abkari workers who lost employment consequent to the ban of arrack can be rehabilitated. A decision shall be taken within a period of 3 months from the date of receipt of a copy of this judgment. Ext.P6 order is quashed."

In the light of the above direction of the learned Single Judge in W.P.(C)No.26878/07, the learned counsel for the appellant submitted that the appellant is ready to file a representation before the 1st respondent Government and before the 5th respondent, and the appellant will be satisfied if this Court direct respondents 1 and 5 to consider such representations on merit guided by the judgment of this Court in the above writ petition.

5. When the Bench suggested the appellant to file a

review petition against the impugned judgment of the learned Single Judge, the learned counsel for the appellant submitted that the appellant had already filed a review petition as R.P.No.1256/08. Since, we are inclined to dispose the writ appeal, which is preferred against the judgment of the learned Single Judge against which a review petition is pending, we directed the Registry to call for the review petition and post along with this writ appeal, so that the same can also be disposed of along with this writ appeal.

In the result, this writ appeal is disposed of directing the appellant to file a representation, setting forth all the facts and circumstances which lead to the filing of W.P.(C) No.16614/07, seeking reliefs whatever he wants, by producing the copy of the judgment dated 3.4.2009 in W.P. (C)No.26878/07, and the said representation shall be filed within one month from today and in case such a representation is filed, the respondents 1 and 5 are directed to consider the same on merit, guided by the directions issued in the judgment dated 3.4.2009 in W.P.(C)

No.26878/07, which became final ; since none of the respondents has challenged the same and the respondents are directed to pass appropriate orders within 3 months from the date of receipt of copy of this judgment, which will be produced by the appellant. As the writ appeal is disposed of with the above directions, we are of the view that, no orders are warranted in the review petition filed by the petitioner/appellant and accordingly the same can be closed. Accordingly, W.A.No.1749/09 stands disposed of and R.P.No.1256/08 stands closed.

Sd/-
V.K.MOHANAN, Judge

Sd/-
P.D.RAJAN, Judge

ami/

//True copy//

P.A.to Judge