

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRA

WEDNESDAY, THE 22ND DAY OF JULY 2015/31ST ASHADHA, 1937

WP(C).No. 2620 of 2005 (J)

PETITIONER:

PRASAD D.,
S/O. KOCHU KRISHNAN CHANNAR, OVERSEER (ELECTRICAL)
(UNDER ORDERS OF REVERSION), ELECTRICAL SECTION
CHARUMMOODU, ALAPPUZHA DIST.

BY ADVS. SRI. M. V. THAMBAN
SRI. K. V. ANIL KUMAR

RESPONDENT(S):

1. CHIEF ENGINEER (HRM),
KERALA STATE ELECTRICITY BOARD, PATTOM
THIRUVANANTHAPURAM.
2. DEPUTY CHIEF ENGINEER,
ELECTRICAL CIRCLE, ALAPPUZHA.
3. ASSISTANT ENGINEER,
ELECTRICAL SECTION, CHARUMMOODU.
4. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, PATTOM, THIRUVANANTHAPURAM.
5. N. P. MURALI,
METER READER, ELECTRICAL SECTION, ATHOLI
KOZHIKODE DISTRICT.
6. THE EXECUTIVE ENGINEER, ELECTRICAL DIVISION,
MAVELIKKARA.

R1 - R 4 & 6 BY ADV. SRI. RAJU JOSEPH (SR.)
ADV. SRI. P. SANTHALINGAM (SR.)
ADV. SRI. ASHOK. M. CHERIYAN, SC FOR KSEB
ADV. SRI. S. SHARAN, SC, K. S. E. BOARD
ADV. SRI. K. T. PAULOSE, SC, KSEB
R5 BY ADV. SRI. P. V. KUNHIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC.2620/05

PETITIONER'S EXTs:

- EXT.P1: COPY OF ORDER NO.EB 40120(C)/99 DT.30.12.2004 BY THE 1ST RESPONDENT.
- EXT.P2: COPY OF ORDER DT.11.7.03 IN WPC.22065/03.
- EXT.P3: COPY OF ORDER DT.21.12.2004 IN WPC.37124/04.
- EXT.P4: COPY OF ORDER NO.EB-4120(C)/1999 DT.7.2.2003.
- EXT.P5: COPY OF CIRCULAR NO.EB-GR-3/OS(ELE)/2003-04 DT.12.3.2004.
- EXT.P6: COPY OF REPRESENTATION DT.11.3.2005 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.
- EXT.P7: COPY OF LETTER DT.31.3.2005.
- EXT.P8: COPY OF JUDGMENT DT.7.2.2007 IN OP.NO.13379/03.
- EXT.P9: COPY OF ORDER NO.EB2/SE(ELE)/MR/2006/4 DT.4.11.2006.
- EXT.P10: COPY OF INTERIM ORDER DT.10.4.08.
- EXT.P11: COPY OF BOARD ORDER BO(CM)NO.1919/2008 LAS 111/WP(C) NO.11811/2008 DT.5.8.2008.
- EXT.P12: COPY OF LETTER NO.EB4(B)/ W.P.(C)No.11811/2008 DT.14.8.09.

RESPONDENTS' EXTs:

- EXT.R5(A): COPY OF JUDGMENT IN W.P.(C)No. 15678/04 OF THIS COURT DT.16.6.04.

TRUE COPY

P.S.TO JUDGE

dsn

ANIL K.NARENDRA, J

W.P.(C)No.2620 Of 2005

DATED THIS THE 22nd DAY OF JULY, 2015

JUDGMENT

The petitioner who was working as Overseer (Electrical) in the Electrical Section, Charummood of the Kerala State Electricity Board has filed this Writ Petition seeking a writ of certiorari to quash Ext.P1 order dated 30.12.2004 issued by the 1st respondent and seeking a declaration that he is not liable to be reverted as Meter Reader for the purpose of promoting the 5th respondent, since the said respondent has not applied for promotion in time and that such a promotion does not warrant reversion of the petitioner and also that Ext.P1 order is without notice and hence violative of the principles of natural justice.

2. I heard arguments of the learned counsel for the petitioner, learned Senior Counsel appearing for respondents 1 to 4 and 6 and also the learned counsel for the 5th respondent.

3. The fact that Ext.P1 order passed by the 2nd respondent ordering reversion of the petitioner from the post of Overseer (Electrical) to the post of Meter Reader is one issued without notice

to the petitioner, is not in dispute. The learned counsel for the 5th respondent would point out that the said order was passed pursuant to Ext.R5(a) judgment of this Court dated 16.6.2004 in W.P.(C)No.15678/2004.

4. It appears that, taking note of the direction contained in Ext.R5(a) judgment of this Court, the 1st respondent by Ext.P1 ordered that the 5th respondent, who was then working as Meter Reader in the Electrical Section, Atholi shall be provisionally promoted as Overseer (Electrical) under 25% quota and included in the Office order dated 7.2.2003. It was consequent to the promotion granted to the 5th respondent, the petitioner was ordered to be reverted by Ext.P9 order passed by the 1st respondent. The fact that the 5th respondent is entitled for promotion to the post of Overseer (Electrical) in preference to the petitioner and that he is senior to the petitioner are not in dispute. If that be so, the petitioner cannot contend that the promotion given to the 5th respondent by Ext.P1 order to the post of Overseer (Electrical) is illegal.

5. The next contention advanced by the learned counsel

for the petitioner mainly relying on Exts.P4 and P5 is that, when there were 375 vacancies of Overseer (Electrical) identified under the 25% quota for persons having ITI (Electrical/Wireman/Electrician), there was no necessity for the reversion of the petitioner from the post of Overseer (Electrical). Since the reversion ordered in Ext.P1 was even without any notice to the petitioner, he was denied an opportunity to substantiate the above stand before the 1st respondent. Therefore, the procedure adopted while ordering reversion by Ext.P1 is also in violation of the principles of natural justice.

6. From the pleadings and documents on record, it is explicitly clear that, the reversion ordered in Ext.P1 is without notice to the petitioner. In such circumstances, Ext.P1 order to the extent it orders reversion of the petitioner from the post of Overseer (Electrical) to the post of Meter Reader cannot be sustained and Ext.P1 order to that extent is set aside. It is for the 1st respondent to consider the question of reversion of the petitioner from the post of Overseer (Electrical) and pass appropriate orders thereon, with notice to the petitioner, as

expeditiously as possible, at any rate within a period of three months from the date of receipt of a certified copy of this judgment.

7. It will be open to the petitioner to rely on Exts.P4 and P5 before the 1st respondent in order to substantiate his contention that, even for giving promotion to the 5th respondent as Overseer (Electrical), as ordered in Ext.P1, there was absolutely no necessity to revert the petitioner to the post of Meter Reader. Needless to say that a decision taken by the 1st respondent, as directed above, shall be a reasoned order meeting all the contentions raised by the petitioner. If it is ultimately found that the petitioner was entitled to be retained as Overseer (Electrical), all consequential monetary benefits, including revised terminal benefits shall be disbursed to him within a period of three months thereafter.

The Writ Petition is disposed of as above.

Sd/-

ANIL K.NARENDRAN, JUDGE

dsn