

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

RP.No. 42 of 2015 (G) IN WP(C).18668/2014

ORDER IN WP(C) 18668/2014

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REVIEW PETITIONER/PETITIONER:

DR.A.C.RAJAN, GENERAL MANAGER,
KERALA STATE INDUSTRIAL DEVELOPMENT
CORPORATION LIMITED, KESTON ROAD,
KOWDIAR, THIRUVANANTHAPURAM-695 003.

BY ADV. SRI.S.VISHNU

RESPONDENTS/RESPONDENTS:

1. STATE OF KERALA REP BY THE PRINCIPAL SECRETARY
TO GOVERNMENT, INDUSTRIES (I)DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
2. KERALA STATE INDUSTRIAL DEVELOPMENT
CORPORATION LIMITED REP BY ITS MANAGING
DIRECTOR, KESTON ROAD, KOWDIAR,
THIRUVANANTHAPURAM-695 003.
3. THE MANAGING DIRECTOR, KERALA STATE INDUSTRIAL
DEVELOPMENT CORPORATION LIMITED, KESTON ROAD,
KOWDIAR, THIRUVANANTHAPURAM-695 003.

R1 BY GOVT. PLEADER SMT.C.K.SHERIN
R2 & R3 BY ADV. SRI.SAJI VARGHESE

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON
11-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX IN RP 42/2015

PETITIONER'S EXHIBITS:

ANNEXURE A1 TRUE COPY OF THE G.O.(Rt)NO.1363/2014/ID DATED 6.12.2014 ISSUED BY THE INDUSTRIES DEPARTMENT

ANNEXURE A2 TRUE COPY OF THE INTERIM ORDER DATED 21.7.2014 IN WPC 18668/2014 OF THE HON'BLE HIGH COURT OF KERALA

ANNEXURE A3 TRUE COPY OF THE ORDER DATED 16.12.2014 IN WPC 18668/204 OF THE HON'BLE HIGH COURT OF KERALA

ANNEXURE A4 TRUE COPY OF THE COMMUNICATION NO.KSIDC/TVM/2014/2389 DATED 17.12.2014 ISSUED BY THE SECOND RESPONDENT

ANNEXURE A5 TRUE COPY OF THE ORDER DATED 17.12.2014 IN WPC 27696/2014 OF THE HON'BLE HIGH COURT OF KERALA

ANNEXURE A6 TRUE COPY OF THE ORDER NO.TP(1)57579/12 DATED 13.10.2014 ISSUED BY THE DIRECTOR OF AGRICULTURE

ANNEXURE A7 TRUE COPY OF THE ATTENDANCE REGISTER IN RESPECT OF THE PETITIONER FOR THE MONTH OF AUGUST AND SEPTEMBER 2014

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

R.P.No.42 of 2015 in
W.P.(C)No.18668 of 2014 G

Dated this the 11th day of February, 2015

ORDER

This Court on 16.12.2014 issued an interim direction in W.P.(C)Nos.18668/2014 and 25184/2014 observing as follows:

“Since the petitioners are said to have been superannuated and relieved from duty pursuant to Exhibit P7 order, it may not be appropriate to issue any mandatory interim direction putting the clock back by way of reinstatement of the petitioner in service. At any rate, to protect the interest of the petitioners, it is observed that the superannuation and consequent retirement of the petitioners in the face of Exhibit P7 shall be subject to the outcome of the writ petition. If the writ petitions are to be allowed on merits, declaring that the age of superannuation shall be sixty years for the purpose of all service benefits, it shall be treated as if the petitioners had continued in service till they attained the age of superannuation, i.e., sixty years.”

2. As the writ petitions are still pending consideration on merits, the petitioner in W.P.(C)No. 18668/2014 has come up with the present review petition. According to the review petitioner, as on the date of Annexure-A3 order dated 16.12.2014, the petitioner was in service and that only subsequently, i.e., on the very next day, through Annexure-A4, he was superannuated and relieved from service. Citing Annexure-A5 interim order in some other writ petitions concerning another Corporation, the petitioner filed the present review petition seeking what is said to be parity of treatment.

3. The learned counsel for the review petitioner has strenuously contended that by the time Annexure-A3 order was issued, the petitioner was in service and only subsequently he was made to retire on superannuation. He has further contended that under identical circumstances, through Annexure-A5, al beit, involving another public sector undertaking, this Court has issued an interim

direction letting the petitioners therein to continue in service, provided they are not superannuated, till the issue is resolved, by drawing fifty percent of their presently drawn salary as consolidated monthly payment, to be adjusted based on the outcome of the writ petition.

4. It is the specific contention of the learned counsel for the review petitioner that since the petitioner is similarly placed, he ought to have been extended the same benefit.

5. The learned Standing Counsel for the second respondent has submitted that through Annexure-A3 order the interest of the petitioner has been sufficiently protected and that if the court were to hold that the age of superannuation was to be sixty years, it should be treated as if the petitioner had continued in service till he attained the age of superannuation, i.e. sixty years. According to him, in view of the protective measure, it is difficult to discern that any prejudice has been caused to the interest of the petitioner.

6. The learned Standing Counsel has also submitted that Annexure-A5 interim order involves another Corporation having distinct contractual obligations vis-a-vis its employees and that the order issued therein under the factual circumstances of those cases could not be applied to the revision petitioner. According to him, there cannot be any precedent based on an interim direction, much less parity of treatment, since any decision in a particular case entirely depends upon the factual matrix of that particular case.

7. In the alternative, the learned Standing counsel has submitted that there is no error apparent on the face of the record in so far as Annexure-A3 order is concerned requiring any review.

8. On a perusal of Annexure-A3 order, it is very clear that the interest of the petitioner stands protected. As has been rightly contended by the learned Standing Counsel for the second respondent, I do not see any valid ground to

apply what is said to be a benefit under Annexure-A5 given to others under different circumstances.

Under these circumstances, the review petition stands dismissed.

Dama Seshadri Naidu, Judge

tkv