

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

RP.No.157 of 2015

(AGAINST THE JUDGMENT DATED 17-12-2014 IN WA 1446/2014).

REVIEW PETITIONERS/2ND RESPONDENT:

1. C.J. CHANDRASEKHARAN,
ASSISTANT EXECUTIVE ENGINEER (RETIRED),
SREECHANDRA,KODAKARA P.O.,
THRISSUR DISTRICT-680684.
2. P.K.RAVINDRAN,EXECUTIVE ENGINEER PWS (RTD),
SIVAM,GANDHINAGAR P.O.,KOORKANCHERY,
THRISSUR-680001,
NOT MADE AS PARTY IN THE PARTY ARRAY
SINCE HE DIED ON 4.1.2015.

BY ADV. SRI.B.SAINU

RESPONDENTS/APELLANTS:

1. STATE OF KERALA,REPRESENTED BY PRINCIPAL,
SECRETARY TO GOVERNMENT,PWD DEPARTMENT,
SECRETARIAT,THIRUVANANTHAPURAM.
2. THE CHIEF ENGINEER,P.W.D ADMINISTRATION,
THIRUVANANTHAPURAM.
3. THE ACCOUNTANT GENERAL,KERALA BRANCH OFFICE,
P.B.NO.507,KARUNAKARAN NAMBIAR ROAD,THRISSUR.

R1 TO R4 BY SPECIAL GOVT. PLEADER SMT.GIRIJA GOPAL.

**THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 6.3.2015
THE COURT ON 18-03-2015, PASSED THE FOLLOWING:**

R.P. NO.157/2015

APPENDIX

PETITIONER'S ANNEXURES:

**ANNEXURE A1:TRUE COPY OF THE JUDGMENT IN W.A.NO.1446/2014
DATED 17.12.2014.**

**ANNEXURE A2:TRUE COPY OF THE RELEVANT PAGES OF THE MEMORANDUM
OF ORIGINAL PETITION FILED BEFORE THE HONOURABLE
DIVISION BENCH.**

**ANNEXURE A3:TRUE COPY OF THE JUDGMENT IN OP(KAT)NO.4317/2013,
DATED 28.3.2014.**

RESPONDENT'S ANNEXURES: NIL

//TRUE COPY//

P.S. TO JUDGE

pk

**ASHOK BHUSHAN, Ag.CJ
& A.M.SHAFFIQUE, J.**

R.P.No.157 of 2015
in W.A.No.1446 of 2014

Dated this the day of March 2015

ORDER

Shaffique,J

The 2nd respondent in the Writ Appeal is the review petitioner herein. He challenges the judgment by way of review inter alia contending that Annexures R2 and R3 have not been considered by this Court while forming an opinion that the petitioners are not entitled for the benefit of higher pay scale as allowed under the seven tier system. Reference is also made to an earlier judgment of this Court in O.P.(KAT) No.4317/2013. In fact, this Court, had considered a similar issue in W.A.No.9042012 and it is based on the said judgment that this case has also been decided. The review petitioner claims that he was promoted as Assistant Executive Engineer under the seven tier system with effect from 17/08/1998. He retired from service on 13/08/2002. We have found that there is no material to indicate that the petitioner was promoted to the post on the

basis of seven tier system as his name was not included in the order dated 20/06/1998.

2. The short question is therefore whether Government Order dated 16/04/1999 relied upon by the petitioner can have any bearing on the factual issues.

3. Government Order dated 16/04/1999 is a select list for promotion to the post of Assistant Executive Engineer for the years 1997, 1998 and 1999. Petitioner claims that he was included in the said select list. But the relevant factor to be noted is whether any promotions had been affected in terms of Government Order dated 09/02/1996. The only document available by which restructuring of the PWD Engineering Service has been done is Government Order dated 20/06/1998. In so far as the petitioners have not been promoted based on the said Government Order, no benefit can accrue to them.

4. As far as the judgment in O.P (KAT) No.4317/2013 is concerned, the said judgment does not give any particulars regarding the factual aspects of the case and it is apparent that the factual issues have not been gone into by

the said Division Bench and as such it does not lay down any ratio for us to rely upon. In fact, the Division Bench relied upon the judgment in W.A.No.2503/2005. In that case, the Division Bench granted certain benefits to the petitioner who retired prior to the Government Order dated 07/10/2003 and had worked as Special Grade Executive Engineer, which is an additional grade created under the seven tier system. They were given the benefit only on the finding that they had worked in that capacity during the relevant time and before the Government Order came to be issued. No such eventuality has occurred in the case on hand.

In the result, we do not think that any of the grounds mentioned in the review petition calls for interference and accordingly the review petition is dismissed.

(sd/-)

**(ASHOK BHUSHAN,
ACTING CHIEF JUSTICE)**

(sd/-)

(A.M.SHAFIQUE, JUDGE)

jsr

