

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

W.P.(C).No.4250 of 2006 (E)

PETITIONER(S):-

1. RAMESHAN P.G. S/O.GANGADHARAN,
VELICKAKATH HOUSE, IRUMPANAM.
2. P.G.HARSHAN, MALAYIL HOUSE, IRUMPANAM.
3. M.G.AUGUSTINE, MALIACKAL HOUSE, KAKKANAD.
4. V.K.SUPRAN, VADAKKAKAM HOUSE,
THUTHIYOOR, KAKKANAD.
5. T.T.CHANDRAN, THOTTIPPARAMBIL HOUSE,
IRUMPANAM.

BY ADV. SRI.S.KRISHNAMOORTHY.

RESPONDENT(S):-

1. STATE OF KERALA,
REP. BY ITS SECRETARY, DEPARTMENT OF INDSTRIES,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
2. TRACO CABLE CO.LTD.,
REP. BY ITS MANAGING DIRECTOR, PANAMPILLY NAGAR,
K.S.H.B. COMPLEX, ERNAKULAM.
3. THE SENIOR MANAGER (P&A),
TRCO CABLE COMPANY LTD., K.S.H.B. OFFICE COMPLEX,
PANAMPILLY NAGAR, KOCHI - 36.

R1 BY GOVERNMENT PLEADER SRI.S.JAMAL.

R2 & R3 BY ADVS. SRI.E.K.NANDAKUMAR [SENIOR ADVOCATE]

SRI.K.JOHN MATHAI

SRI.P.BENNY THOMAS

SRI.ANIL D. NAIR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).NO.4250 OF 2006-E

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 TRUE COPY OF THE JUDGMENT IN OP.NO.2613/95
 DATED 9.4.1999 OF THIS HON'BLE COURT.
- EXT.P2 TRUE COPYH OF THE ORDER ISSUED TO THE 4TH
 PETITIONER DATED 14.2.2001.
- EXT.P3 TRUE COPY OF THE CONFIRMATION ORDER DATED
 24.10.2002 ISSUED TO THE 3RD PETITIONER.
- EXT.P4 TRUE COPY OF THE JUDGMENT DATED 27.05.2005 IN
 O.P.NO.20635 OF 1999 OF THIS HON'BLE COURT.

RESPONDENT'S EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.4250 of 2006-E

Dated this the 30th day of September, 2015

JUDGMENT

The petitioners herein are in the second round of litigation. The petitioners, admittedly, are casual workers in the respondent-Company on contract basis. When a notification was published by the Company to appoint unskilled workers in regular vacancies, the petitioners approached this Court by filing O.P.No.2613 of 1995, wherein this Court, at the stage of admission directed reservation of 10 posts and later disposed of the same with the following directions:

“(i) The prayer to quash Exts.P5 and P9 is disallowed.

(ii) In view of the findings on point Nos.(i), (ii) and (iii), a direction is issued to the Company to consider the claim of the petitioners for regularisation in the posts kept vacant in view of the order of this court in C.M.P.No.4807 of 1995, or in any other posts available, on merits and in accordance with law expeditiously at any rate within a period of three months from today”.

In fact, the aforesaid Original Petition was disposed of along with claims made by other casual workers; but not similarly situated. In three writ petitions, numbered as O.P.12239 of 1997, 12237 of 1997 and 18796 of 1997, the following directions were issued:

“(a) In view of the findings on point nos.(i) and (ii), a direction is issued to the Company to consider the claim of the petitioners for regularisation of their service and for payment of wages at the rate applicable to regular semi-skilled/unskilled workers, on merits and in accordance with law expeditiously at any rate within a period of three months from today”.

Subsequently, a Special Leave Petition filed was dismissed and the trainees, who had filed the aforementioned three Original Petitions, were before this Court again by Exhibit P4. This Court directed that the directions of the Hon'ble Supreme Court, extracted in Exhibit P4 judgment, should be strictly complied with. The directions were insofar as continuing to engage the trainees till they are absorbed in the respondent-Company and not to employ any semi-skilled or unskilled workers from outside till such absorption.

2. The case of the petitioner is that, the Hon'ble Supreme Court even in the Special Leave Petition filed against the three Original Petitions aforementioned had specifically noticed that the directions in O.P.No.2613 of 1995 would not be affected and the respondent-Company is obliged to comply with the same. In any event, to the said vacancies the petitioners along with others were appointed as per Exhibit P2. A reading of Exhibit P2, dated 14.02.2001, specifically indicates that the appointment was prospective and was to be from the date of regularisation. The petitioners conceded to that. Subsequently, the above writ petition was filed in the year 2006, claiming that they ought to be given seniority above those persons appointed from the open category in the year 1995.

3. It is to be noticed that none of the affected parties have been impleaded herein. Further, the petitioners had accepted the appointment in the year 2001, which was from that date, i.e. 14.02.2001. The petitioners had not challenged such appointment and claimed retrospective appointment from the date of the earlier notification. The petitioners after having continued for five years, raised the aforesaid challenge with this delayed writ petition.

For the reason of the delay in approaching this Court and for the reason of the affected parties having not been impleaded, the writ petition would stand dismissed. No costs.

Sd/-

K.Vinod Chandran
Judge.

vku/-

[true copy]