

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.M.JOSEPH
&
THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 5TH DAY OF DECEMBER 2012/14TH AGRAHAYANA 1934

WA.No. 355 of 2010

AGAINST THE JUDGMENT IN OP.37059/2002 DATED 05-07-2007

APPELLANT(S)/RESPONDENT:

KERALA STATE ELECTRICITY BOARD,
VYDHUDDHI BHAVAN, PATTOM, THIRUVANANTHAPURAM
REPRESENTED BY ITS SECRETARY.

BY ADVS.SRI.C.K.KARUNAKARAN, SC FOR KSEB
SRI.P.SANTHALINGAM (SR.)
SRI.S.SHARAN, SC, K.S.E.BOARD
K.S.ANIL, SC, NO MEMO

RESPONDENT(S)/PETITIONER:

R.MOHANKUMAR,
RETD. CHIEF PERSONAL OFFICER, K.S.E.BOARD
THIRUVANANTHAPURAM, RESIDING AT KRA 96, CHURCH LANE
PALLIMUKKU, PETTAH, THIRUVANANTHAPURAM.

BY ADV. SMT.T.D.RAJALAKSHMI
ADV. SRI.R.SREEHARI

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 05-12-2012, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Neither the appellant nor its counsel is present. The
appeal is dismissed for default.

Sd/- K.M.JOSEPH, JUDGE.

5-12-2012

Sd/- K.HARILAL, JUDGE.

/true copy/

P.S. to Judge.

ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.

W.A. No. 355 OF 2010

Dated this the 16th day of November, 2015

JUDGMENT

Ashok Bhushan, C.J.

Heard both the sides. This writ appeal has been filed against the judgment dated 05.07.2007 in O.P. No. 37059 of 2002 by which judgment the learned Single Judge allowed the Original Petition quashing Exts.P3 and P5 orders produced in the original petition filed by the 1st respondent to the appeal.

2. The 1st respondent, who had entered into the service of Kerala State Electricity Board as Regional Personnel Officer on 01.09.1976. After various higher grades and promotions, ultimately he retired on 30.09.2001. He was granted third higher grade on 01.09.2001 with regard to which certain objections were raised and the same was recalled by order dated 21.10.2002 which was challenged by the petitioner in O.P. No.37059 of 2002.

3. The learned Single Judge held that Clause viii of Article VIII of Ext.R1(c) cannot be applied to the officers hence

the objection raised on the said basis is without any substance. Learned counsel for the appellant challenging the order of the learned Single Judge contended that Article VIII of Memorandum of Settlement signed on 19.04.1990 provided that in case where there are presently no promotion channels fixed, grade promotions will be granted on completion of the prescribed number of years. He submits that the said benefit was only available to the workmen and the petitioner being an officer of the Board was not entitled to have the said benefit. Clause viii of the Settlement reads as follows:

"viii. In cases where there are presently no promotion channels fixed, grade promotions will be granted, on completion of the prescribed number of years of service to the next higher scale of pay. But this provisions will apply only to grade promotions to be effected to the scales of pay of workmen."

4. We have considered the submission and perused the record.

5. The petitioner had filed Ext.P1 which was an order dated 15.03.1996 issued by the Board on the subject; "Establishment - Revision of scales of pay, allowances, etc, of the

Officers of the Board - Orders issued". The order Ext.P1 itself indicates that after the memorandum of settlement was signed with the workmen, representations were received from various Associations of different categories of the Officers of the Board for the revision of scale of pay and for determination of other service conditions, which resulted in formation of a Committee by the Board which submitted its report dated 01.11.1995. The Board approved the proposal and Government also concurred with the proposal hence the order was issued.

6. In the Government Order one of the conditions, i.e. Condition No.III of General Clause (2) provides for Grade Promotion which is to the following effect:

"(2) Grade promotion

The present practice of granting time bound grade promotion for completed service of 10/20 years in the case of Officers will be revised as 10, 18 and 25 years as in the case of workmen. This will have notional effect from 01.07.1988 and monetary benefit with effect from 01.07.1993."

7. The only submission which has been pressed before us is that the benefit of grade promotion was not available to the

officers due to the fact that the Settlement dated 19.04.1990 was only with regard to the workmen. The above submission cannot be accepted in view of the specific orders issued by the Government on 15.03.1996 with regard to the officers after due deliberation and after obtaining a report of the Committee. The settlement with the workmen and giving certain benefits to them was one of the reasons which lead for filing of representations and formation of Committee and issuance of the Government Order by the State. When the Government Order dated 15.03.1996 provided for grade promotion the said benefit cannot be denied on the submission that the settlement dated 19.04.1990 was only for the workmen and the said benefit could not flow to the officers.

8. As noted above, in view of the specific provision pertaining to grade promotion as contained in Ext.P1 settlement dated 19.04.1990 the submission was wholly irrelevant and was not applicable in so far as the officers are concerned. The petitioner had already retired on 30.09.2001 and this Court by an order dated 26.03.2010 had already provided that in the event

the appeal fails, the respondent shall be paid the benefit with 9% interest.

The learned Single Judge did not commit any error in allowing the Original Petition. The Writ Appeal is dismissed.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**