

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

RP.No. 930 of 2014 (J)

JUDGMENT DATED 08/01/2014 IN WP(C).NO.18898/2013.

.....

REVIEW PETITIONERS/PETITIONERS:

1. UDAYAKUMAR C., PORTER/HELPER,
HANTEX HEAD OFFICE, OOTTUKUZH, Y,
THIRUVANANTHAPURAM - 695 001,
(AGED 42, S/O. CHELLAPPAN, PUNNAVILA VEEDU,
ITHIYOOR, BALARAMAPURAM P.O., THIRUVANANTHAPURAM).
2. AJITH KUMAR B., PORTER,
HANTEX HEAD OFFICE, OOTTUKUZH, Y,
THIRUVANANTHAPURAM - 695 001,
(AGED 55, S/O. BABU, AKHILAM, KADAKKAVILAKAM,
ANAYARA P.O. THIRUVANANTHAPURAM).

BY ADVS.SRI.K.S.MADHUSOODANAN,
SRI.THOMAS CHAZHUKKARAN,
SRI.M.M.VINOD KUMAR,
SRI.P.K.RAKESH KUMAR,
SRI.K.S.MIZVER.

RESPONDENTS/RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY ADDITIONAL CHIEF SECRETARY,
INDUSTRIES DEPARTMENT, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.
2. DIRECTOR OF HANDLOOM AND TEXTILES,
VIKAS BHAVAN, THIRUVANANTHAPURAM.
3. MANAGING DIRECTOR,
KERALA STATE HANDLOOM WEAVERS
CO-OPERATIVE SOCIETY LIMITED NO. N.H 232,
THIRUVANANTHAPURAM - 695 001.

R1 & R2 BY GOVT. PLEADER SRI.R. RANJITH.
R3 BY ADV. SRI.T.M.RAMAN KARTHA, SC.

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION
ON 09-01-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

rs.

RPNo. 930 of 2014 (J)

APPENDIX

PETITIONER'S ANNEXURES:-

- | | |
|---------------------|--|
| ANNEXURE I | COPY OF THE ORDER BARING NO.A&E3/PR/06
DATED 21/12/2006. |
| ANNEXURE II | COPY OF THE JUDGMENT IN WP(C).NO.14388/2009
DATED 12/08/2009. |
| ANNEXURE III | COPY OF THE JUDGMENT IN W.A. NO. 85/2010
DATED 26/05/2010. |
| ANNEXURE IV | COPY OF THE AFFIDAVIT OF 3RD RESPONDENT
DATED 17/11/2014. |

RESPONDENT'S ANNEXURES:- **NIL.**

//TRUE COPY//

P.S. TO JUDGE

rs.

K. VINOD CHANDRAN, J.

=====

**R.P. No.930 of 2014 in
W.P.(C) No. 18898 of 2013**

=====

Dated this the 9th day of January, 2015

O R D E R

The petitioners have approached this Court with a review, on the ground that Annexure-II judgment in fact granted similar benefits to similarly placed employees and there should be review of the directions in paragraph 2 in the present writ petition. The revision sought is for a positive direction to the respondents to grant the benefits already granted as per Annexure-II; to the petitioners also.

2. The issue relates to grant of higher grade and a Union of employees had approached this Court with a writ petition numbered as W.P.(C) No.14388 of 2009, which was disposed of by Annexure-II judgment on 12.08.2009. This Court found that there are some inconsistencies in the matter of payment of salary and other service benefits and it was declared that the second petitioner and the other

persons in Ext.P1 list, produced therein, would have to be granted grade promotion w.e.f 01.05.2006 and will be entitled to payment of arrears consequent of grade promotion, with effect from that date.

3. It is pertinent that the petitioners herein, who claim to be similarly placed employees, even at that point of time had not approached this Court and no claim was made with respect to similar treatment within a reasonable period. Annexure-II judgment is dated 12.08.2009, the petitioners have chosen to file a writ petition only in 2013. Further when the hearing was proceeded with, Annexure-II judgment was not at all brought to the notice of this Court. There is also no explanation offered as to why Annexure-II was not pointed out to this Court, at the time of hearing.

4. This Court merely directed that the arrears if granted, to all other similarly placed employees, then the petitioners also would be entitled for the same. The petitioners herein cannot claim that, Annexure-II should be

made applicable to the petitioners also, since, this Court in Annexure-II had specifically confined the relief to the second petitioner therein and the persons mentioned in Ext.P1 list. The claim raised in the writ petition is grossly belated too.

5. The learned Counsel for the respondent Corporation submits that as a matter of fact, the amounts as directed in Annexure-II have not been paid to all the employees, who were included in Ext.P1 list in that case. The bad financial situation of the respondent is pointed out to justify the non-disbursal of benefits; which even all the employees covered by Annexure-II is yet to be paid, is the contention. In any event this Court is now not concerned with the compliance of Annexure-II. The petitioners' entitlement was considered and directions issued, which direction is now sought to be modified. When the parties to Annexure-II have also not been paid the arrears, there cannot be any superior claim for the petitioners who have

not chosen to challenge the alleged denial of benefits, promptly and within a reasonable time. In any event, this Court does not find any grounds for review as held in **State of West Bengal and others v. Kamal Sengupta and another [(2008) 8 SCC 612]**.

The review petition hence would stand dismissed.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge.