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

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

WA.No. 1664 of 2011

AGAINST THE JUDGMENT IN WP(C) 4104/2006, DATED 19-09-2011

APPELLANT(S)/PETITIONERS:
----

1. **PETER C.G., S/O. GEORGE, AGED 46 YEARS,**
   SLR WORKER, MINOR IRRIGATION, OFFICE OF THE
   ASSISTANT ENGINEER, KODAKARA, THRISSUR.

2. **JOHNSON E.A., S/O. ANTONY, AGED 44 YEARS,**
   SLR WORKER, MINOR IRRIGATION, OFFICE OF THE
   ASSISTANT ENGINEER, KODAKARA, THRISSUR.

3. **THEYYAMMA,**
   SLR WORKER, MINOR IRRIGATION, OFFICE OF THE
   ASSISTANT ENGINEER, KODAKARA, THRISSUR.

4. **P.C.VARGHESE,**
   SLR WORKER, MINOR IRRIGATION, OFFICE OF THE
   ASSISTANT ENGINEER, KODAKARA, THRISSUR.

5. **K.K.THANKAM,**
   SLR WORKER, MINOR IRRIGATION, OFFICE OF THE
   ASSISTANT ENGINEER, KODAKARA, THRISSUR.

BY ADVS.SRI.C.A.CHACKO
SMT.C.M.CHARISMA

RESPONDENT(S)/RESPONDENTS:
----

1. **STATE OF KERALA, REPRESENTED BY**
   SECRETARY TO GOVERNMENT, WATER RESOURCES DEPARTMENT,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.

2. **CHIEF ENGINEER (IRRIGATION AND**
   ADMINISTRATION), THIRUVANANTHAPURAM-695 001.

PJ

.....2/-

3. THE EXECUTIVE ENGINEER,
CHIMMONY DAM PROJECT, CHIMMONY DAM P.O.
THRISSUR-680 304.

4. THE ASSISTANT ENGINEER,
MINOR IRRIGATION, KODAKARA-680 684.

BY SPECIAL GOVERNMENT PLEADER SMT.GIRIJA GOPAL

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 27-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

ASHOK BHUSHAN, Ag.CJ
& A.M.SHAFFIQUE, J.
* * * * * * * * * * * * * *
W.A.No.1664 of 2011

Dated this the 27th day of January 2015

J U D G M E N T

Shaffique,J

This appeal is filed by the petitioners in W.P.C.No.4104/2006 challenging the judgment dated 19/09/2011 of the learned Single Judge. The writ petition was filed challenging Ext.P8 by which the request of the petitioners for regularisation in service has been rejected by the Government. The petitioners claimed benefit of notification G.O.(P).No.6/90/PW&T dated 20/01/1990 by which Government decided to regularise those workers who were on service on or before 19/05/1983 and had put in a minimum service of 500 days as on 01/04/1987. It was also mentioned that those CLR workers who were appointed on 19/05/1983 and not completed 500 days as on 01/04/1987 will be eligible for absorption as SLR workers. Though the petitioners claimed that they are entitled to be regularised in

service as CLR workers as they have completed 500 days of minimum service as on 01/04/1987, Government did not accept the said contention and rejected the claim. They were appointed as SLR workers on the basis that they had not completed 500 days service as specified above. Impugning the aforesaid order dated 22/10/2005 (Ext.P8), this writ petition is filed placing the claim based on Ext.P2. Ext.P2 is an intimation dated 30/12/1997 issued by the Executive Engineer to the Chief Engineer inter alia stating as under:

> *"As per Government Order cited above, an additional list of C.L.R workers was approved by Government. The C.L.R service as on 19/05/1983 was only included in this list. As per standing Government Order, the N.R.service upto 30/03/1991 from 19/03/1983 can also be considered in respect of the employees for regularisation in service. In this circumstance, the working days of them on N.R.basis is counted and the revised details in the prescribed proforma are submitted herewith for favour of necessary action."*

3. Along with Ext.P2, a list is also annexed which contains the number of days worked by the concerned

employees from 19/05/1983 to 01/04/1987. The list annexed indicates that the persons mentioned therein namely the petitioners herein had worked for more than 500 days.

4. In the Counter affidavit filed by the 1st respondent, it was stated that though Ext.P2 was prepared by the concerned Officer, the same was not in accordance with the procedure prescribed as supporting documents were not available while preparing the seniority list. It was stated that Ext.P2 was not authentic as it was not prepared based on actual office records such as hand receipts and measurement books to ascertain the actual days of service that the petitioners had put in. It is, therefore, mentioned that the petitioners, having not produced any materials to indicate that they were in service during the relevant period for a minimum period of 500 days, they are not entitled to be appointed as CLR workers.

5. Having considered the factual dispute regarding Ext.P2, the learned Single Judge dismissed the writ petition observing that in the absence of any further material to

indicate that the petitioners had put in service for a minimum period of 500 days and especially when Ext.P2 was not considered to be an authentic document, it was not possible for this Court to issue any direction, as sought for and accordingly the writ petition was dismissed.

6. The learned counsel for the appellants strenuously relies upon the list annexed with Ext.P2 to indicate that the appellants had sufficient number of days service to be appointed as CLR workers. As already indicated by the learned Single Judge, there being a dispute regarding the list prepared in terms of Ext.P2, it may not be possible for this Court to issue any direction based on Ext.P2. It is indicated that Ext.P2 list is not authentic as it is not supported by any documents especially hand receipts and other related materials which would show that a particular employee had worked for 500 days or not. Under such circumstances, it may not be possible for this Court to rely upon Ext.P2 and therefore the learned Single Judge was justified in rejecting the said contention.

7. The learned counsel for the appellants would further submit that, based on the seniority as SLR workers, the appellants had already been regularised in service. This, apparently, is a subsequent event, which benefit the appellants are entitled to get. We only observe that as far as the claim of the appellants based on Ext.P2 is concerned, it cannot be justified and therefore the Government was justified in rejecting their claim in terms of Ext.P8.

The writ appeal therefore is dismissed.

(ASHOK BHUSHAN,
ACTING CHIEF JUSTICE)

(A.M.SHAFFIQUE, JUDGE)

jsr