

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 6TH DAY OF JANUARY 2015/16TH POUSHA, 1936

WA.No. 9 of 2015 () IN WP(C).13343/2014

AGAINST THE ORDER/JUDGMENT IN WP(C) 13343/2014 of HIGH COURT OF
KERALA DATED 13-11-2014

APPELLANT(S)/APPELLANT/PETITIONER:

MONI P.K
DEPUTY CHIEF ENGINEER BOLDING FULL POWER OF CHIEF ENGINEER
PALLIVASAL EXTENSION SCHEME, MEENCUT, MUNNAR-685565

BY ADV. SRI.M.R.ANISON

RESPONDENT(S)/RESPONDENT/RESPONDENTS:

1. KERALA STATE ELECTRICITY BOARD LIMITED
REPRESENTED BY ITS SECRETARY, VYDHYUTHI BHAVAN, PATTOM
THIRUVANANTHAPURAM-695004

2. MR.SHAHUL HAMEED M
THE SECRETARY (ADMINISTRATION) KERALA STATE ELECTRICITY
BOARD LTD
VYDHYUTHI BHAVAN, PATTOM PALACE P O
THIRUVANANTHAPURAM-695004

3. THE DEPARTMENT PROMOTION COMMITTEE (HIGHER)
FOR TECHNICAL OFFICERS FOR PROMOTION TO THE CADRE OF
CHIEF ENGINEER REP BY ITS CHAIRMAN
KERALA STATE ELECTRICITY BOARD LTD, PATTOM
THIRUVANANTHAPURAM-696004

4. MR S RAJEEV
DEPUTY CHIEF ENGINEER
RESEARCH AND DAM SAFETY ORGANISATION KERALA
STATE ELECTRICITY BOARD LTD
PATTOM, KOTTAYAM-686007

5. SMT.P SUCHITHRA
DEPUTY CHIEF ENGINEER (CIVIL)
DESIGNING AND CONSTRUCTION SOUTH, VYTHYUDHI BHAVAN
PATTOM, THIRUVANANTHAPURAM-695004

6. MR VARGHESE SAMEL
DEPUTY CHIEF ENGINEER (CIVIL) OFFICE OF THE CHIEF ENGINEER
HUMAN RESOURCE MANAGEMENT (HRM) VYDHYUTHI BHAVAN
PATTOM PALACE P O, THIRUVANANTHAPURAM-695004

WA.No. 9 of 2015

7. K V MOHANAN,
DEPUTY CHIEF ENGINEER (CIVIL) KERALA STATE ELECTRICITY BOARD
CIVIL CIRCLE, PALLOM, KOTTAYAM DIST

8. LALITHA M N
DEPUTY CHIEF ENGINEER (CIVIL) KERALA STATE ELECTRICITY BOARD
CIVIL CIRCLE, KOTHAMANGALAM, ERNAKULAM DIST

R BY SRI.ANOOP.V.NAIR
R1 TO R3 BY SRI.K.S.ANIL, SC, KSEB

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
06-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.A.No. 9 of 2015

Dated this the 6th January, 2015

JUDGMENT

Ashok Bhushan, Ag.CJ.

Heard learned counsel for the appellant and the learned counsel appearing for the Electricity Board.

2. This Writ Appeal has been filed by the appellant against the judgment dated 13.11.2014 in W.P(C). No.13343 of 2014. The Writ Appeal is confined only to the observations made in paragraph 29 of the judgment of the Single Judge, which is quoted as under:

“29. It is not in dispute that presently, too, there are substantive vacancies which are required to be filled up. It meets the ends of justice, in my considered opinion, if the respondent Board convenes DPC and considers the case of the petitioner either singly or with other eligible candidates to be promoted for the post of Chief Engineer. On such consideration, the respondent Board is at liberty to take

recourse to sealed cover method till the finalisation of the disciplinary proceedings, which in any event are required to be expedited so that no prejudice is caused to the petitioner.”

3. Learned counsel for the appellant submits that there is an order dated 18.2.2012 of the Kerala State Electricity Board regarding promotion of the officials of the Board and maintenance of performance appraisal reports and constitution of Departmental Promotion Committee. It is submitted that although the learned Single Judge in the judgment has extracted Clauses (g) and (h) of the order dated 18.2.2012, but has not relied upon Clause (h) of the order. It is submitted that in view of the observations made, the authorities are bound to follow the sealed cover procedure as contemplated under Clause (g). It is submitted that looking into the nature of allegations in the memo of charges, at best it is a case of minor penalty and hence Clause (h) alone is attracted.

4. We need not express any opinion on the merits of the said contention. We only observe that the observation

in paragraph 29 of the judgment shall not preclude the competent authority to consider the case taking note of Clause (h) of the order, if the facts of the charges make out such a case.

With the above observation, the Writ Appeal is disposed of.

**ASHOK BHUSHAN
ACTING CHIEF JUSTICE**

**A.M.SHAFFIQUE
JUDGE**

vgs6/1/15