

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1935

WP(C).No. 624 of 2013 (C)

PETITIONERS:

1. V.SWAMINATHAN, LAST GRADE SERVANT
COLLEGE OF APPLIED SCIENCE, KALLEPPULLY, MALAMPUZHA,
PALAKKAD-678 005.

2. SIBI K. MATHEW,
LAST GRADE SERVANT, COLLEGE OF APPLIED SCIENCE,
KATTAPPANA, IDUKKI DISTRICT.

BY ADVS.SRI.N.N.SUGUNAPALAN (SR.)
SRI.S.SUJIN

RESPONDENTS:

1. THE DIRECTOR
INSTITUTE OF HUMAN RESOURCES DEVELOPMENT
PRAJO'E TOWERS, VAZHUTHACAUD
THIRUVANANTHAPURAM-695 014.

2. STATE OF KERALA -
REPRESENTED BY CHIEF SECRETARY TO
GOVERNMENT GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695 014.

R1 BY ADV. SRI.V.A.MOHAMMED, SC, IHRD
R2 BY GOVERNMENT PLEADER SMT.SUNITHA VINOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 16-01-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT-P1 - TRUE COPY OF THE APPOINTMENT ORDER ON 20-9-2010 ISSUED BY 1ST RESPONDENT.

EXHIBIT-P2 - TRUE COPY OF THE PROCEEDINGS DATED 19-8-1996 OF THE 2ND RESPONDENT

EXHIBIT-P3 - TRUE COPY OF THE ORDER DATED 20-11-2012 ISSUED BY THE 1ST RESPONDENT.

EXHIBIT-P4 - TRUE COPY OF THE ORDER DATED 30-11-2012 ISSUED BY THE 1ST RESPONDENT.

RESPONDENTS' EXHIBITS : NIL.

TRUE COPY

P.S.TO JUDGE

css/

A.V.RAMAKRISHNA PILLAI, J

WPC No.624 of 2013

Dated this the 16th day of January, 2015

JUDGMENT

Aggrieved by the inaction on the part of the respondents in declaring that the petitioners have successfully completed their probation as well as in implementing or extending the benefit of provident fund scheme to the petitioners in spite of Exts.P3 and P4 directions, the petitioners have come up before this Court.

2. At the time of filing of this writ petition, the petitioners were working as Last Grade Servants in the service of the Institute of Human Resources Development (IHRD for short). They were appointed to the said post after a regular selection process such as written test and interview. The petitioners were appointed from the ranked list on 24.9.2010 as per Ext.P1. As per Ext.P1, they were appointed on a scale of pay of ₹4510-6230. It was specified that they would be on probation for one year within a period of two years from the date of joining the

service.

3. The grievance of the petitioners is that even after the completion of three years, the respondents neither declared that the petitioners have successfully completed their probation nor extended their period of probation. The petitioners point out that the service rendered by the petitioners was to the full satisfaction of their superiors. In the meanwhile evaluation report from the Principals of the Colleges were called for. The petitioners allege that to the best of their knowledge, the report was in their favour. However, even after that, there was no move on the part of the first respondent to declare their probation.

4. By Ext.P2, the provident fund scheme was introduced for the employees of IHRD in the year 1996. The eligibility for extension of the benefit of provident fund as per Ext.P2 is one year regular service. Therefore, according to the petitioners, they are entitled to be under the provident fund scheme. Since the provident fund scheme was not extended to the last grade servants, there were demands for the same and finally it was

decided to extend the benefit of the scheme to the last grade servants as well, as per Ext.P3. As per Ext.P3, 12% of the basic pay would be deducted from the salary of the last grade servants from November 2012 onwards.

5. The petitioners point out that an undertaking was also obtained from the employees to introduce the scheme for them. Subsequently, Ext.P4 order dated 30.11.2012 was issued by the first respondent clarifying the working of the scheme to the heads of the department.

6. The grievance of the petitioners is that no further action was taken by the first respondent or second respondent in respect of the directions issued till now. It is with this background, the petitioners have come up before this Court.

7. I have heard the learned senior counsel for the petitioners and the learned standing counsel for the petitioners.

8. It was submitted by the learned counsel for the petitioners that the first petitioner demitted his office

during the pendency of this writ petition. The learned senior counsel for the petitioners would point out that about 145 employees have completed more than three years of service and they are entitled to the benefit of the provident fund scheme. However, there is failure on the part of the first respondent to introduce the scheme to the last grade servants.

9. Regarding the declaration of probation, the facts averred by the petitioners in the writ petition are not denied at all. As per the rules, the petitioners were to be on probation for one year for a continuous period of two years from the date of joining service. Therefore, there is no justification on the part of the first respondent in refusing to declare that the probation of the petitioners have successfully completed, as the period of probation was not extended by the respondents.

10. Regarding the introduction of the petitioners to the benefit of provident fund, the learned standing counsel for the respondents submitted that the employees have to fill a prescribed format and submit the same.

11. On a consideration of the entire materials now placed on record, this Court is of the definite view that the petitioners are entitled to succeed.

In the result, this writ petition is allowed. The first respondent is directed to declare that the petitioners have successfully completed their period of probation.

The respondents are also directed to implement Exts.P3 and P4 orders with effect from November 2012 onwards for the benefit of employees of IHRD including last grade servants.

The respondent concerned shall issue a notice intimating the eligible employees to fill up the prescribed format and to submit the same to the respondent concerned for getting the benefit of the provident fund scheme extended. A time frame shall be fixed for submitting the format. After getting the prescribed format duly filled by the eligible employees, the process of extending the benefit of provident fund scheme to the employees shall be completed within a period of one month thereafter.

In the case of the petitioners, the petitioners are permitted to submit the filled up format as required by the respondents within a period of one month from today and in the event of filing the same, the petitioners shall be extended the benefit of provident fund scheme, in the light of Exts.P3 and P4 orders within a period of one month thereafter.

sd/- A.V.RAMAKRISHNA PILLAI
JUDGE

CSS/

true copy

P.S.TO JUDGE