

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON
&
THE HONOURABLE SMT. JUSTICE P.V.ASHA**

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 193

WA.No. 1299 of 2015 () IN WP(C).27605/2009

AGAINST THE JUDGMENT IN WP(C) 27605/2009 of HIGH COURT OF KERALA DATED

APPELLANT(S)/PETITIONER IN WPC 27605/2009.:

**THE GENERAL SECRETARY
TITANIUM PRODUCTS LABOUR UNION (INTUC), KUNNUPURAM
THIRUVANANTHAPURAM-695021.**

BY ADV. SRI.THAMPAN THOMAS

RESPONDENT(S)/RESPONDENTS:

- 1. TRAVANCORE TITANIUM PRODUCTS LTD.
KOCHUVELI
TRIVANDRUM-21 REPRESENTED BY ITS MANAGING DIRECTOR.**
- 2. THE MANAGING DIRECTOR
TRAVANCORE TITANIUM PRODUCTS LTD., KOCHUVELI
TRIVANDRUM-21.**
- 3. STATE OF KERALA
REPRESENTED BY THE SECRETARY, INDUSTRIES DEPARTMENT
GOVERNMENT SECRETARIAT, TRIVANDRUM.**
- 4. REGIONAL LABOUR COMMISSIONER (CENTRAL)
COCHIN.**
- 5. DEPUTY CHIEF LABOUR COMMISSIONER (CENTRAL)
NO.26, HADDOWS ROAD, SASTHRI BHAVAN
CHENNAI-600006.**
- 6. THE LABOUR COURT, ERNAKULAM-682031.**

**R3 TO R6 BY GOVERNMENT PLEADER SRI.M.MOHAMMED SHAFI
R1 & R2 BY SMT.LATHA KRISHNAN**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 06-07-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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**P.R.RAMACHANDRA MENON
&
P.V.ASHA, JJ**

W.A.No.1299 of 2015

Dated this the 6th day of July, 2015

JUDGMENT

P.R.RAMACHANDRA MENON

The appellant herein, who is the Union representing the employees concerned in the respondent company had come up before this Court by filing W.P.C.27605/2009 mainly challenging the award passed by the Central Government Industrial Tribunal-cum- Labour Court, Ernakulam in I.D.No.23/2008. The prayers were in the following terms:

".....justifiability of stoppage of the privilege of extension of service from 58 to 69 to workmen; against the workment. All the other writ petitions are filed by individual workmen who were retired at the age of 58. The individual workmen alleged discrimination insofar as selectively retiring certain workmen and allowing others to continue."

2. The reliefs sought for were vehemently opposed by the respondent management. The issue was mainly in connection with the reference made as to the justifiability of stoppage of privilege of extension of service from 58 to 60 years in the case of workmen. As a matter of fact there were 3 different categories such as officers, staff and workers and dispute was mainly in respect of the age of the workers. The

management filed an application before the competent authority to modify the relevant clause dealing with discretion vested with the management and to have the workmen retired at the age of 58, and after considering the same, an order was passed by the concerned authority declining the relief sought for by the management. Various other issues are also involved, reference to which is not necessary, in view of the limited question to be considered in this appeal. It has to be made a mention that several individual workmen had also approached this Court, apprehending retirement at the age of 58 and seeking for immediate intervention. All the writ petitions as above were considered together by the learned single Judge and the merit of each case was dealt with separately as evident from the judgment under challenge. The operative portion as contained in paragraph 44, 45 and 46 are extracted below:

"44.....W.P.(C).27605 of 2009, challenging the Award of the Central Government Industrial Tribunal –cum- Labour Court in I.D.23 of 2008,would also stand dismissed upholding the impugned Award.

45. Considering the fact that the workmen were relentlessly before this Court and then the Labour Court, it

is only appropriate that, those who were permitted to work after the age of retirement, on the basis of the interim orders issued by this Court, be granted the wages for such work.

46. The modification sought by the workmen for enhancement of retirement age would definitely stand annulled. The Management or the workmen shall be entitled to approach the Certifying Officer on the basis of the subsequent agreement, if not already approached."

3. Heard Sri.Thampan Thomas, the learned counsel appearing on behalf of the appellant Union as well as Mr.M.N,Radhakrishna Menon, learned counsel appearing for the respondent company, apart from the learned Government Pleader appearing for respondents R3 to R6.

4. It is brought in notice of this Court, during the course of hearing, that steps are being pursued before the competent authority/forum in view of the terms of the settlement arrived at between the Management and the Unions in the year 2010. As to the course of action to be pursued, it is stated by the learned counsel for the management that the settlement provides for extension of service by a maximum term of 2 years (one year at a time, extendable by one more year), which shall be at the discretion of the management,

subject to satisfaction of different norms such as medical fitness, performance, absenteeism, essentiality etc. The learned counsel appearing for the appellant Union submits that the appellant Union was constrained to move the matter by way of this appeal apprehending an abrupt termination of service of the concerned employees. The learned Standing Counsel submits that further proceedings would be pursued only in terms of the settlement of the year 2010 as aforesaid and there is absolutely no basis for the apprehension expressed from the part of the Union, in respect of the continuing employees.

5. In the above circumstances, this Court finds that no other orders are necessary in this appeal. The appeal stands closed in terms of the judgment already passed by the learned single Judge.

**Sd/-
P.R.RAMACHANDRA MENON
JUDGE**

**Sd/-
P.V.ASHA
JUDGE**

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PA TO JUDGE

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