

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

WP(C).No. 9554 of 2006 (K)

PETITIONER:

VISHNU NAMBEESAN K.M., AGED 53
EXECUTIVE OFFICER, KANIPURA SRI GOPALAKRISHNA, TEMPLE
P.O.KUMBALA, KASARAGOD DISTRICT.

BY ADV. SRI.M.RAMESH CHANDER

RESPONDENT(S) :

1. STATE OF KERALA, REP. BY SECRETARY TO
GOVERNMENT, (DEVASWOM), THIRUVANANTHAPURAM.

2. THE COMMISSIONER, HINDU RELIGIOUS AND
CHARITABLE ENDOWMENT (A) DEPARTMENT, KOZHIKODE.

3. THE ASSISTANT COMMISSIONER,
H.R. & C.E. (A) DEPARTMENT, KASARAGOD.

R,R2 BY ADV. GOVERNMENT PLEADER ABHIEET LESSIL
R,R2-3 BY ADV. SRI.K.MOHANAKANNAN,SC,MALABAR DEVASWOM
R,R2-3 BY ADV. SRI.N.MANOJ KUMAR,SC,MALABAR DEVASWOM
R2,R3 BY ADV. SRI.V.KRISHNA MENON, SC, MALABAR DEVASWOM
BOARD
R2 & 3 BY ADV. SRI.KRISHNAKUMAR.S, SC, MALABAR DEVASWOM
BOARD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
19-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

kkj

WP(C) .No. 9554 of 2006 (W)

APPENDIX

PETITIONER'S EXHIBITS

EXT-P1: TRUE COPY OF THE ORDER ISSUED BY COMMISSIONER DT.18.12.03

EXT-P2: TRUE COPY OF JUDGMENT IN W.P. (C) NO.20850/2004 DTD
29.11.2004

EXT.P3: TRUE COPY OF PROCEEDINGS OF THE COMMISSIONER DATED
26.10.2004

EXT.P4: TRUE COPY OF FIXATION STATEMENT ISSUED BY DY.COMMISSIONER

EXT.P5: TRUE COPY OF FIXATION STATEMENT ISSUED TO THE PETITIONER
DATED 20.01.2005

EXT.P6: PHOTOCOPY OF G.O. (MS) NO.316/05/RD DATED 20.10.2005

EXT.P7: PHOTOCOPY OF REPRESENTATION TO THE COMMISSIONER DATED
15.05.2005

EXT.P8: PHOTOCOPY OF PROCEEDINGS OF THE COMMISSIONER DATED
23/6/2004

EXT.P9: PHOTOCOPY OF JUDGMENT IN O.P.NO.5402/04 DTD 11.11.1987

NIL

// TRUE COPY //

PA TO JUDGE

K.SURENDRA MOHAN, J.

W.P.(C) No.9554 of 2006-K

Dated this the 19th day of January, 2015

J U D G M E N T

The petitioner was appointed as a Vth Grade Executive Officer on 02.05.1977. His probation was declared on 01.05.1979. He was also promoted as a IVth Grade Executive Officer on the said date. The complaint of the petitioner is that, he has not been granted promotion as a IIIrd Grade Executive Officer, IInd Grade Executive Officer and Ist Grade Executive Officer respectively, thereafter. He has a further complaint that, his date of initial entry into service has been erroneously taken as 02.05.1979. Therefore, he wants his service to be reckoned after correcting his date of entry into service as 02.05.1977. The counsel for the petitioner places reliance on Exhibit P4 Fixation Statement, where his entry in service has been correctly shown as 02.05.1977. Therefore, he seeks the issue of appropriate directions for fixation of his service on

W.P.(C) No.9554 of 2006-K

the basis of Exhibit P4 and P5 and for the grant of promotions legitimately due to him on the said basis.

2. The petitioner had earlier approached this Court by filing W.P.(C) No.20850 of 2004. The said writ petition was disposed of by Exhibit P2 judgment, recording the fact that the petitioner had been promoted as a Grade II Executive Officer with effect from 18.12.2003, leaving open his grievance regarding date of entry into service to be agitated separately. Accordingly the petitioner had submitted Exhibit P7 representation to the second respondent. He complains that, no orders have been passed thereon, till date.

2. According to the learned Counsel for the petitioner, the petitioner had completed the age of 50 years on 07.02.2001. Therefore, the petitioner was entitled to be promoted as a Grade III Executive Officer with effect from the said date. Subsequently, he also became entitled to promotion as a Grade -II Executive Officer with effect from 08.02.2003. It is contended that, he was entitled to be

promoted as Grade I Executive Officer with effect from 08.02.2005. The said promotions have been denied to him. Therefore, according to the counsel for the petitioner, he has retired from service as a Grade-II Executive Officer. In view of the above, the petitioner seeks the issue of appropriate directions for the consideration of Exhibit P7 and for the grant of the monetary benefits on the basis of promotions that were legitimately due to him.

3. A counter affidavit has been filed by the second respondent. The second respondent has in the counter affidavit expressed willingness to consider the grievances of the petitioner in accordance with law. I have heard the learned Government Pleader who appears for the respondents also.

4. Since Exhibit P4 shows that the date of entry of the petitioner in service is 02.05.1977, the benefits due to the petitioner would have to be calculated with effect from the said date. If there has been an error as contended by the petitioner in computing the service of the petitioner, it

is only appropriate that the same is corrected, immediately. It is not in dispute that the petitioner has attained the age of 50 years on 07.02.2001. Exhibit P8 shows that a person who has attained the age of 50 years is exempt from the test qualification that is stipulated. Therefore, as on 07.02.2001, the petitioner was entitled to promotion as a IIIrd Grade Executive Officer. In view of the above, further promotions due to the petitioner would have to be worked out on the basis of the date on which the petitioner had admittedly attained 50 years of age. The said exercise would have to be undertaken by the second respondent before whom Exhibit P2 representation is pending. The second respondent has expressed his willingness to do so, in his counter affidavit. Since the petitioner has retired from service, the petitioner would be entitled only to notional promotion and consequential benefits due on the basis of such promotions. It is absolutely necessary that, the said exercise is completed expeditiously and the petitioner granted all the consequential benefits, without further

delay. Though as per Exhibit P3 order, the petitioner appears to have been granted promotion as a Grade II Executive Officer, the same is only with effect from 18.12.2003, which date does not appear to be correct. Therefore, the said date would also have to be corrected.

In view of the above, this writ petition is disposed of directing the second respondent to consider Exhibit P7 representation submitted by the petitioner, in accordance with law and also in accordance with the observations made hereinabove. Appropriate orders shall be passed, after considering Exhibit P7, as expeditiously as possible and at any rate within a period of four weeks of the date of receipt of a copy of this judgment.

Sd/-
K.SURENDRA MOHAN,
JUDGE

kkj