

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937
WP(C).No. 3985 of 2012 (W)

PETITIONERS:

1. DEEPU.S.
S/O.G.SIVADASAN, RESIDING AT DIVYA HOUSE, THOKKAD P.O.
NARIKALLU, VARKALA, TRIVANDRUM-695 143.
2. RAJEEV R,
S/O.LATE R.RAVEENDRAN, KANAKAKUNNU VEEDU
PEWRUMPUZHA THAZHAM, PERUMPUZHA P.O., KUNDARA
KOLLAM.691504
3. NANDAKUMAR S,
S/O.SANKARAN PILLAI, MADATHIL THARAYIL, ADINAD
SOUTH KATTILKADAVU P.O., KARUNAGAPPALLY
KOLLAM-690 542
4. M.SURESHKUMAR
S/O.LATE V.K.MADHAVAN, VETTUKKATTU HOUSE, ALAPPAD
ALUMKADAVU P.O., KARUNAGAPPALLY, KOLLAM-690 573.
5. S.SUJITH
S/O.LATE K. SADASIVAN, SUJITH VIHAR, KUZHITHURA P.O.
KARUNAGAPPALLY, KOLLAM-690 542.

BY ADVS.SRI.A.JAYASANKAR
SRI.MANU GOVIND

RESPONDENTS:

1. THE CENTRE FOR SCIENCE AND TECHNOLOGY
ENTERPRENEURSHIP DEVELOPMENT (C-STED), 19/1557, NESTLE
VATTAMPOYIL, CHALAPPURAM ROAD, CHALAPPURAM P.O.
KOZHIKODE, 673 002 REPRESENTED BY ITS DIRECTOR.
 2. THE CENTRE FOR SCIENCE AND TECHNOLOGY
ENTERPRENEURSHIP DEVELOPMENT (C-STED), SUB CENTRE
KOLLAM, REPRESENTED BY ITS DISTRICT CO-ORDINATOR
SMT.P.VEENA-691 001.
 3. STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT
SCIENCE AND TECHNOLOGY (A) DEPARTMENT
SASTHRA BHAVAN, PATTOM, TRIVANDRUM-695 004.
- R3 BY SRI.RAFEEL.V.K., GOVERNMENT PLEADER
R1 BY ADV. SRI. GEORGE ZACHARIA
R1-R2 BY ADV. SRI.BABU JOSEPH KURUVATHAZHA
R1-R2 BY ADV. SRI.C.P.SIVADASAN NAIR
R1&2 BY ADV. SRI.GEORGE ZACHARIAH, SC, C STED
RR2 BY ADV. SRI.M.RAMESH CHANDER (SR.)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

RKC

APPENDIX

PETITIONERS' EXHIBITS

EXHIBIT P1. COPY OF THE MEMORANDUM OF ASSOCIATION AND RULES AND REGULATIONS.

EXHIBIT P2. COPY OF ORDER NO.G.O.(Rt) 102/2010 /S&TD DATED 29/12/2010.

EXHIBIT P3. COPY OF MEMORANDUM OF UNDERSTANDING NO.149/2009 DATED 21/02/2009.

EXHIBIT P4. COPY OF IDENTITY CARDS ISSUED BY THE 1ST RESPONDENT TO THE PETITIONERS 1,4 & 5.

EXHIBIT P5. COPY OF ORDER G.O.(MS)NO.3/2008/S&TD DATED 28/4/2008.

EXHIBIT P6. COPIES OF APPRECIATION CERTIFICATES OF 1ST RESPONDENT TO THE PETITIONER.

EXHIBIT P7: COPY OF THE REGISTRATION CERTIFICATE ISSUED BY THE GOVERNMENT OF KERALA UNDER THE SOCIETIES REGISTRATION ACT, 1860

EXHIBIT P8: COPY OF THE QUERY MADE UNDER THE RIGHT TO INFORMATION ACT, IN MAY 2011, ALONG WITH ITS REPLY DATED 8.6.2011 FROM THE DIRECTOR OF THE FIRST RESPONDENT.

EXHIBIT P9: COPY OF THE ATTENDANCE REGISTER FOR THE MONTH OF JUNE 2010.

1ST RESPONDENT'S EXHIBITS

R1(A): COPY OF THE AGREEMENT DATED 15.6.2009 ENTERED INTO BETWEEN THE TEAM LEADER, PROJECT IMPLEMENTATION UNIT, TSUNAMI EMERGENCY ASSISTANCE PROJECT (TEAP); EXECUTIVE DIRECTOR, SOCIETY FOR ASSISTANCE TO FISHERMEN AND PROJECT DIRECTOR OF R1.

R1(B): COPY OF THE PRESS RELEASE ISSUED BY R1 IN THE NAME OF R2.

R1(C): COPY OF THE NEWS ITEM PUBLISHED IN THE DESHABHIMANI DAILY DATED 10.7.2009

R1(D): COPY OF THE RANK LIST PUBLISHED BY R1

R1(E): COPY OF THE ORDER NO.STED/HO/2701/TEAP DATED 31.1.2011 ISSUED BY R1.

R1(F): COPY OF THE AFFIDAVIT DATED 19.7.2012 OS SMT.P.VEENA, THE 2ND RESPONDENT.

RKC

TRUE COPY

PA TO JUDGE

P.V.ASHA, J.

.....
W.P.(C) No.3985 of 2012
.....

Dated this the 30th day of July, 2015

JUDGMENT

Petitioners were appointed under the first respondent, as Mission Coordinators and Field Staff on 24.7.2009, 30.9.2009, 12.9.2009 and 1.3.2009 and 1.3.2009 respectively on payment of consolidated monthly salary. Their appointments were after being successful in an interview. On 31.1.2011 their services were terminated without notice and without stating any reason. Petitioners have produced Ext.P4 series of identity cards issued to them by the respondents in order to show that they were employees of STED project.

2. According to the petitioners, their disengagement without any notice is illegal. They point out that as per Ext.P5-G.O.(MS) No.3/2008/S&TD dated 28.4.2008, Government had issued orders reconstituting STED project as an autonomous body as per Government order dated 2.1.2007. Thereafter on the basis of the proposal forwarded by Project Director, STED Project for registering STED project as an autonomous body,

Government issued orders according sanction for registration of STED project by name Centre for Development of Entrepreneurship in Science and Technology and for registration under the Societies Registration Act, 1860. Simultaneously sanction was also accorded for transfer to the new Society, assets, liabilities and function of STED project on the date of registration of Society, along with all the employees. Clause 4 of Ext.P5 reads as follows:

"4. Sanction is accorded to take over by the new Society, all employees of STED project on the date of registration of the new Society as they are continuing at present."

3. The learned Counsel for the respondent opposed the contention saying that the petitioners were not in service when Ext.P5 was issued. Even though Ext.P5 was issued on 25.04.2008, sanction accorded therein is to take over the employees of STED as on the date of registration. Ext.P7 is the registration certificate of STED which shows that the date of its registration with the District Registrar of Kozhikkode is 18.11.2009.

4. Very serious allegations and counter allegations are

raised between the parties and the counsel appearing for them about the sequence of events which happened subsequent to the filing of the writ petition. A series of I.As, counter affidavits, reply affidavits, additional affidavits are also filed. But I do not propose to deal with those highly contested factual circumstances which led to interim orders, contempt petitions, etc.

5. I find substance in the contention of the petitioners that they are denied employment despite Ext.P5 order, which provide that the employees as on the date of registration of the Society will be taken over by the new Society. The petitioners who were appointed on the basis of Ext.R1(b) and (c) notifications and R1 (d) ranked list published after a due process of selection were employees of 1st respondent as on the date of registration of Society as per Ext.P7 i.e as on 18.11.2009. They are therefore entitled to get the benefit of Ext.P5, notwithstanding the fact that their services were terminated as early as on 31.1.2011.

6. It is relevant to point out that the respondents have raised contentions regarding the delay in approaching the Court challenging the denial of employment saying that they were not

aggrieved. But I do not think that the fact that they approached this Court only in the year 2012 will take away their right to get re-engagement under the respondents. Respondents have issued certificate of appreciation to the employees and they do not have any complaint over the conduct of performance of the petitioners. However, they were unceremoniously sent out without giving them even a notice, at a time when they were eligible for the benefit of Ext.P5 order.

7. Petitioners have in their counter affidavit in I. A No. 9379 of 2015 pointed out that there are vacancies available under the respondents against which they can be accommodated. But the counsel for the respondents seriously disputes this saying that there are no vacancies. A further objection is that concurrence of Government is necessary for their re-appointment.

8. Since Government have already accorded concurrence for continuance of the employees as on the date of registration of the Society, the question of further concurrence is not required just because they had to face an illegal termination. Petitioners were kept out of employment all these years.

9. Under the above circumstances, respondents are directed

W.P.(C) No.3985 of 2012

:5:

to re-engage the petitioners in any existing/next arising vacancies. The petitioners submit that they are willing to be engaged in any suitable posts in the event of nonavailability of vacancies in the posts in which they were working. Accordingly, there will be a direction that the respondents shall consider them for engagement against vacancies in suitable post, that may arise under the respondents giving due weightage to their experience under it, in case vacancies in the posts they worked are not available.

The writ petition is accordingly disposed of with the above directions.

**P.V.ASHA,
JUDGE.**

rkc