

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

W.P.(C).No.2874 of 2013 (H)

PETITIONER(S):-

PRASANNA.V., AGED 48 YEARS, W/O.REGHUVARAN,
VAZHI THALAKKAL, SOUTH ARYAD,
AVALOOKUNNU P.O., ALAPPUZHA DISTRICT.

BY ADVS.SRI.S.SANAL KUMAR
SMT.BHAVANA VELAYUDHAN
SMT.T.J.SEEMA.

RESPONDENT(S):-

1. THE KERALA STATE HANDLOOM DEVELOPMENT CORPORATION,
REPRESENTED BY ITS MANAGING DIRECTOR,
REGIONAL OFFICE, SASTHAMANGALAM,
THIRUVANANTHAPURAM - 695 010.
2. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO INDUSTRIES DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.

R1 BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI.

R2 BY GOVERNMENT PLEADER SMT.M.J.RAJASREE.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

W.P.(C).NO.2874 OF2013-H

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 COPY OF THE APPOINTMENT ORDER APPOINTING THE
PETITIONER BY THE 1ST RESPONDENT DATED 13.3.1984.

EXT.P2 COPY OF THE REPRESENTATION SUBMITTED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT DT.15.1.2013.

RESPONDENT'S EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.2874 of 2013-H

Dated this the 16th day of November, 2015

JUDGMENT

The petitioner is aggrieved with the fact that, she, a Part-time Sweeper, has not been regularised in the service of the 1st respondent-Corporation. The petitioner relies on similar regularisation made of other Part-time Sweepers; some of whom were regularised from earlier dates itself. The specific contention taken is that one S.Susheela Devi and one P.C.Lusamma were regularised from 01.04.1998. One another person, Leela Amma, is also said to have been regularised as per the directions of this Court in ***Leela Amma v. Managing Director, KSHD Corpn. Ltd.*** [2014 (4) KHC 831].

2. The learned Standing Counsel appearing for the 1st respondent would contend that the regularisation relied on by the petitioner were all made as per the directions issued by this Court and the petitioner had not approached this Court nor the management, for regularisation in all these years. The financial condition of the 1st respondent also does not commend payment of arrears for the earlier periods in the regular scale of pay. The

learned Standing Counsel would also contend that in principle, the 1st respondent has now agreed to regularise the petitioner; but only prospectively.

3. It is to be noticed that S.Susheela Devi and P.C.Lusamma were persons who came to this Court ventilating their grievances long before and it was hence that they obtained regularisation of their service from a long prior date. The petitioner herein had approached this Court only in the year 2013. The petitioner contends that Union was agitating the matter and that the petitioner, a Part-time Sweeper, is not possessed of sufficient knowledge in legal affairs. However, it is to be noticed that other similarly situated persons, who were working under the 1st respondent itself in the same category, had approached this Court when they felt aggrieved.

4. Further, even going by the afore-cited decision, it is seen that the petitioner therein had approached this Court at an earlier point of time and had obtained a judgment on 03.01.2006, wherein there was a direction to consider her claim. Despite the petitioner therein [Leela Amma] being found similarly

situated with Susheela Devi, nothing was done by the respondent-Corporation and it was in such circumstance that this Court directed regularisation; however, only with effect from 01.01.2007 and not with effect from the date of regularisation of Susheela Devi. The petitioner in the afore-cited decision also had attained superannuation and it was, hence, directed payment of pay and allowances as paid to regular Part-time Sweepers with effect from 01.01.2007.

5. In the case of the petitioner, in principle, the management has decided to regularise the petitioner; but only prospectively. A reading of the decision in ***Leela Amma*** (*supra*) would show that the Government had extended the policy of regularising Casual and Part-time Sweepers by an order dated 30.09.2011, incorporating the provisions for creating posts of Full-time and Part-time Sweepers as well as for regularising their services in State Public Sector Undertakings, Boards, Autonomous Institutions, etc. In such circumstances, the petitioner shall be regularised from 01.10.2011. But, however, the payment of arrears of pay in the regular pay scale of

Part-time Sweepers shall be from 01.02.2013, considering the date of filing of the writ petition. The petitioner shall be regularised and the arrears paid as directed hereinabove, within a period of two months from the date of receipt of a certified copy of this judgment.

The writ petition is disposed of as above. Parties are left to suffer their respective costs.

Sd/-
K.Vinod Chandran
Judge.

vkul/-

[true copy]