

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

WP(C).No. 374 of 2015 (V)

PETITIONER(S):

SUMESH K.V.
KURUMATHUVALAPPIL HOUSE, PORKULAM P.O., PAZHANJI VIA
THRISSUR - 680 542.

BY ADVS.SRI.ASOK M.CHERIAN
SRI.R.ROHITH
SRI.K.JANARDHANA SHENOY
SRI.V.N.RAJAPPAN
SRI.V.K.PRASAD

RESPONDENT(S):

1. STEEL AND INDUSTRIAL FORGINGS LTD.
REPRESENTED BY ITS MANAGING DIRECTOR, ATHANI P.O.
THRISSUR - 680 581.

2. GENERAL MANAGER (ADMINISTRATION & HUMAN RESOURCE
DEVELOPMENT)
STEEL AND INDUSTRIAL FORGINGS LTD, ATHANI P.O.
THRISSUR - 680 581.

R. BY ADV. SRI.SAJI VARGHESE
R. BY ADV. SMT.MARIAM MATHAI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS:

EXT.P1: A TRUE COPY OF THE JUDGMENT OF HON'BLE HIGH COURT OF KERALA IN W.P.(C) NO. 11032/2013 DATED 23/05/2013.

EXT.P2: A TRUE COPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT DATED 22/07/2013 ON THE REPRESENTATION SUBMITTED BY THE SILK GENERAL WORKERS ASSOCIATION (CITU).

EXT.P3: A TRUE COPY OF THE LETTER OF THE 1ST RESPONDENT DATED 11/11/2013 ADDRESSED TO THE PETITIONER.

EXT.P4: A TRUE COPY OF THE REPRESENTATION DATED 27/12/2014 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

RESPONDENT(S) ' EXHIBITS:

ANNEXURE R1(a):TRUE COPY OF G.O(Rt)NO.942/2012/ID DTD 23.06.2012 ISSUED TO GOVERNMENT OF KERALA

ANNEXURE R1(b):TRUE COPY OF NOTIFICATION INVITING APPLICATIONS ISSUED BY the 1st RESPONDENT

ANNEXURE R1(c):TRUE COPY OF the NOTIFICATION INVITING APPLICATION FROM ELIGIBLE CANDIDATES ISSUED BY THE 1st RESPONDENT

True Copy/

P A to Judge

A.MUHAMMED MUSTAQUE, J.
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W.P(C).No.374 of 2015
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Dated this the 09th day of April, 2015

JUDGMENT

Petitioner has applied for the post of Unskilled Worker Trainee with the first respondent pursuant to notification issued by them (Annexure R1(b)). Last date of receipt of application was on 23.05.2012. The written test was conducted on 23.06.2012. The certificate verification was conducted on 11.11.2013. Petitioner approached this Court seeking following reliefs:

(i) Issue a writ in the nature of mandamus directing respondents not to fill up vacancies of Unskilled Worker Trainees in Athani Unit by appointing/engaging Unskilled Worker Trainees selected for Shoranur Unit.

(ii) Issue a writ in the nature of mandamus directing respondents to complete the selection process of Unskilled Worker Trainees for Athani Unit without further delay.

(iii) Issue any other declaration, order or direction appropriate in the facts and circumstances of the case.

2. In this matter a statement has been filed by the respondents. It is stated that Government issued GO (Rt)

No.942/2012/ID dated 23.06.2012 produced as Ext.R1(a) wherein the Government has directed that all the recruitment proceedings already initiated by the Public Sector Undertakings in all categories except posts under the purview of the Kerala Public Service Commission should be cancelled and the same should be entrusted with RIAB. RIAB is directed to follow the communal reservation system and age limit as done by the KPSC in all the category of appointments. In the light of Government order, all the proceedings pursuant to notification issued as Annexure R1(b) has been discontinued and petitioner is denied the right in the matter for appointment as Unskilled Worker Trainee.

3. Admittedly, there are more than 9 vacancies in Athani Unit of the first respondent/company. The only impediment for the first respondent in continuing with the selection process pursuant to Annexure R1(b) is Annexure R1(a).

4. Honourable Supreme Court in **N.T.Devin Katti and Ors. Vs. Karnataka Public Service Commission and Ors. (1990(3) SCC 157)** held that candidate has a vested right to consider for selection in accordance with the

notification then prevailing and cannot be deprived of their consideration based on subsequent change of Rules. Admittedly, Government has issued order only on 23.06.2012. In **Mohanan Vs. Director of Homeopathy (2006(3) KLT 641)** held that vacancies arose before amendment of Rules shall be filled in the light of unamended Rules. The Government cannot cancel an ongoing selection process based on new Rules of recruitment. That Government order can only have a prospective application.

5. In view of the above, I am of the view respondents shall continue with the process of selection pursuant to Annexure-R1(b). Needful shall be done within a period of three months from the date of receipt of a copy of this judgment.

The Writ Petition is disposed of. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.