

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937

OP.No. 21474 of 2002 (F)

PETITIONER(S):

**S.RAVIKUMAR, ASSISTANT GRADE III(D)
FOOD CORPORATION OF INDIA, DISTRICT OFFICE
KOLLAM - 691 001.**

**BY ADVS.SRI.MIRAJ ISMAIL
SRI.G.P.SHINOD**

RESPONDENT(S):

- 1. FOOD CORPORATION OF INDIA, REP.BY
MANAGING DIRECTOR, HEAD QUARTERS, NEW DELHI-110001**
- 2. THE SENIOR REGIONAL MANAGER, FOOD
CORPORATION OF INDIA, REGIONAL OFFICE, KESAVADASAPURAM
THIRUVANANTHAPURAM.**

**R,R1 & 2 BY ADV. SRI.N.M.JAMES, SC, FCI
R BY SRI.N.D.PREMACHANDRAN**

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 09-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONERS EXHIBITS:

- EXT.P1 COPY OF CIRCULAR NO. 40 OF 1985 DTD. 29/7/85 ISSUED BY THE FOOD CORPORATION OF INDIA.
- EXT.P2 COPY OF THE CLARIFICATION ISSUED AS CIRCULAR NO. 75/1987 DTD. 14.12.87
- EXT.P3 COPY OF THE SAID REPRESENTATION DTD. 20.2.86
- EXT.P4 COPY OF THE REPRESENTATIONS DTD. 7.3.88
- EXT.P5 COPY OF THE REPRESENTATION DTD. 27.10.88
- EXT.P6 COPY OF THE JUDGMENT DTD. 13.10.92 IN SWP.1146/88
- EXT.P7 COPY OF THE JUDGMENT DTD. 18.5.94 SENT BY THE GENERAL SECRETARY OF THE FOOD CORPORATION OF INDIA EMPLOYEES UNION TO THE MANAGING DIRECTOR, FOOD CORPORATION OF INDIA.
- EXT.P8 COPY OF THAT REPRESENTATION DTD. 16.6.2000 SENT BY THE PETITIONER TO THE 1ST RESPONDENT.
- EXT.P9 MEMO DATED 16.09.2000 ISSUED TO THE PETITIONER BY THE DISTRICT OFFICER OF THE FOOD CORPORATION OF INDIA.
- EXT.P10 COPY OF LETTER DTD. 15.7.02 SEND BY THE ACTING REGIONAL CHAIRMAN TO THE HON. PRESIDENT, FOOD CORPORATION OF INDIA, EMPLOYEES UNION, CHENNAI.

RESPONDENTS EXHIBITS:

- EXT.R2(A) COPY OF THE ORDER IN SWP. 1470/94 OF HIGH COURT OF JAMMU AND KASHMIR DTD. 23.5.02
- EXT.R2(B) COPY OF THE ORDER OF TH E HON'BLE SUPRME COURT IN SLP NO. 18303/02 DTD. 11.11.02
- EXT.R2(C) COPY OF THE CIRCULAR OF HEAD QUARTERS OF FOOD CORPORATION OF INDIA VIDE CIRCULAR NO. EP 30(13)/88-VOL. IV DTD. 12.8.02.

// TRUE COPY //

PA TO JUDGE.

SB

K. VINOD CHANDRAN, J.

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O.P No.21474 of 2002 - F

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Dated this the 09th day of December, 2015

J U D G M E N T

The petitioner, an employee of the Food Corporation of India (F.C.I) seeks the additional incentives as granted by Ext.P1.

2. I have heard the learned Counsel appearing for the petitioner, but none appears for the F.C.I.

3. The petitioner was appointed as an Assistant Gr.III in the year 1978. The petitioner in addition to the qualification of graduation, also had an L.L.B. He was appointed as Assistant Gr.III and while he was continuing in service an incentive scheme was introduced by the Corporation, by Ext.P1. The scheme was to motivate the employees of the Corporation, to acquire higher professional qualification, so as to effect recruitment to higher posts from the lower cadre itself. It was thought that this would

create an atmosphere of professionalism in the working of the Corporation and would also be an additional incentive to the employees, to gain higher qualifications and thereby, aspire for a faster career progression.

4. The courses, which were approved for grant of incentives was also indicated, which included L.L.B. A further clarification was issued at Ext.P2 that only those officials, who have acquired the higher qualification, while in service would be granted the said additional incentive and those who were appointed with the higher qualification would not be granted such incentives.

5. The learned Counsel for the petitioner would try to buttress his claim on the ground that the essential qualification for appointment to the post of Assistant Gr.III, was merely a graduate degree, which he had, with the additional qualification of L.L.B. It would be discriminatory to grant an incentive to another employee who has acquired a similar qualification, while

declining it to one who had acquired it earlier. A ground of discrimination can be validly raised only when the classification is made between equals and when it does not have any nexus with the intention sought to be achieved. The scheme introduced as per Ext.P1 was intended to motivate the employees of the Corporation to acquire higher qualification. Only if the employees are so motivated and acquire higher qualification, would the incentive be an entitlement to them under the scheme. An employee who already had the qualification at the time of entry into service would not be entitled to such benefit, since then it would defeat the very purpose of the scheme

6. A person, who had acquired the higher qualification, earlier to the appointment in the respondent Corporation, would not be so entitled for the additional incentive since he cannot be said to have been motivated by the scheme. The petitioner could have also for reason only of the circular tried to acquire other

higher qualifications, specified in the scheme itself after it was introduced. The qualification already acquired by him, which was over and above the qualification required for the post to which he was initially recruited, would not entitle him to the benefit under the scheme. That would defeat the very purpose of the scheme, which was intended at motivating the employees to acquire higher qualification, while in service.

7. To that effect, is the decision of the Hon'ble Supreme Court in **Food Corporation of India and others v. Bhartiya Khadya Nigam Karmchari Sangh and another [2012 (2) SCC 307]**, which considered the identical scheme. It was held that a grant of incentive, to in-service employees, for acquiring a higher qualification, while declining the same to in-service candidates, who had already such higher qualification, before appointment to the Corporation, was not discriminatory.

8. The learned Counsel for the petitioner then would point to paragraph 14, wherein Circular No.27/2000 dated

09.11.2000 was referred to, which permitted new recruits to be granted pay, at par with the pay drawn in the previous employment, before joining FCI. The Hon'ble Supreme Court merely noticed the said circular to observe that even new recruits had some benefits and no declaration flows from such observation.

9. It is also to be specifically noticed that the petitioner joined in the year 1978 and the above referred Circular is of the year 2000. Here the contention also is not that the petitioner was employed elsewhere and joined the Corporation with a lesser pay. The contention is that the petitioner had a higher qualification, which ought to have been considered for a higher pay, when Ext:P-1 was introduced, which claim has already been negated. It cannot at all be said that the petitioner could claim the benefit of the Circular of 2000 also, since it was long after the petitioner entered service, and could be applied to fresh recruits after the introduction of the circular.

For all the above reasons, the writ petition is found to be devoid of merit and the same would stand dismissed. Parties are left to suffer their respective costs.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB/10/12/2015

// true copy //

P.A to Judge.