

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

WP(C).No. 7669 of 2007 (K)

PETITIONER(S):

**P.NARAYANAN NAMBIAR, 'USHAS',
TALIPARAMBA, NOW EXECUTIVE OFFICER,
SREE MOOKAMBIKA TEMPLE, PALLIKUNNU, KANNUR DISTRICT.**

**BY ADVS.SRI.K.V.SOHAN
SMT.SREEJA SOHAN.K.
SMT.SANJANA R.NAIR**

RESPONDENT(S):

- 1. STATE OF KERALA,
SECRETARY, DEVASWOM DEPARTMENT, SECRETARIAT,
TRIVANDRUM.**
- 2. THE COMMISSIONER, HR & CE DEPARTMENT,
CIVIL STATION, KOZHIKODE.**

BY GOVERNMENT PLEADER SRI.P.M.ABDUL KHADER

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE APPOINTMENT ORDER ISSUED BY THE
2ND RESPONDENT DTD.31.1.1984.

EXT.P2: TRUE COPY OF THE ORDER PASSED BY THE FIRST RESPONDENT
DTD.24.5.1995.

EXT.P3: TRUE COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT,
DTD.20.6.1995.

EXT.P4: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER
TO THE RESPONDENTS DTD.9.2.1996.

EXT.P5: TRUE COPY OF THE ORDER PASSED BY THE FIRST RESPONDENT
DTD.15.5.2002.

EXT.P6: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO
THE MINISTRY OF DEVASWOM DEPARTMENT, DTD. NIL.

EXT.P7: TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT DTD.19.1.2006.

EXT.P8: TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT
DTD.16.6.2006.

EXT.P9: TRUE COPY OF THE LETTER ISSUED BY THE 2ND RESPONDENT TO ALL THE
ASSISTANT COMMISSIONERS, DTD.8.12.2009.

RESPONDENT(S)' EXHIBITS:

EXT.R2(a): TRUE COPY OF THE ORDER NO.H7/1357/2010/MDB DTD.9.9.2010.

EXT.R2(b): TRUE COPY OF THE LETTER NO.H7/7030/2010/MDB DTD.18.10.2010.

//TRUE COPY//

P.S.TO JUDGE

Msv/

K. SURENDRA MOHAN,J.

W.P(C) NO. 7669 OF 2007

Dated this the 20th January, 2015.

JUDGMENT

The petitioner was initially appointed as an Executive Officer of a temple under the second respondent on temporary basis for a period of three months on 31.1.1984. Later on, the petitioner was regularised in service and was given permanent appointment without the benefit of seniority by the second respondent. Thus, the petitioner continued as a V Grade Executive Officer. He thus continued in service and has retired from service on 30.11.2014 on attaining the age of 60 years. According to the petitioner, he had completed 50 years of age on 25.11.2014. Upon completion of 50 years, he became entitled to exemption from acquiring test qualification. Therefore, he was entitled to promotion to the Higher Grade from the said date, in accordance with the Government Orders

applicable. However, the petitioner complains that he was not granted the promotions that were legitimately due to him. Accordingly he retired as a IV Grade Executive Officer.

2. A counter affidavit has been filed by the second respondent. It has been stated in the counter affidavit that, granting of further promotion would be considered on the basis of the panel of eligible candidates for promotion to the next higher grade being prepared.

3. Heard the counsel for the petitioner as well as the learned Govt. Pleader representing the second respondent.

4. The facts are not in dispute. The petitioner though initially appointed temporarily for a period of three months, had been granted permanent appointment, as evident from Ext.P8 proceedings of the second respondent. Thereafter he continued as a V Grade Executive Officer. Since the petitioner had not been granted subsequent promotions, he had submitted representations to the second respondent. Thereafter, he had approached this Court by filing WPC

19980/2003 seeking the issue of directions for the consideration of his representation. The said writ petition was disposed of by Ext.P7 judgment directing his representation to be considered. Accordingly, after hearing the petitioner and his counsel the second respondent issued Ext.P8 proceedings promoting the petitioner as a IV Grade Executive Officer. The promotion was granted for the reason that the petitioner was exempted from acquiring the test qualification on completion of 50 years. However, further promotions have not been granted to the petitioner. In view of the fact that the petitioner had already retired from service, all that the petitioner could aspire for is the monetary benefits to which he may become entitled, if his claim is accepted. The matter would have to be considered by the second respondent in accordance with the Government Orders applicable at the time the petitioner's case ought to have been considered. The petitioner does not appear to have taken up the matter with the second respondent. Therefore, it is for the petitioner to

take up the matter with the second respondent by submitting a proper representation putting forward his claim for promotion. If a representation is submitted, the second respondent shall consider the grievance of the petitioner and shall consider his eligibility for promotion to the post of a III Grade Executive Officer, a II Grade Executive Officer and I Grade Executive Officer from the dates on which he acquired the necessary conditions of eligibility.

In view of the above this writ petition is disposed of granting liberty to the petitioner to submit a proper representation to the second respondent setting out his claim for promotion. If such a representation is submitted within a period of two weeks of the date of receipt of a copy of this judgment the second respondent shall consider the same with notice to the petitioner and pass appropriate orders thereon, expeditiously. If the petitioner is found entitled to promotions as claimed by him, the monetary benefits due to him on the

basis of such promotions shall also be worked out and paid without delay.

Sd/-
K. SURENDRA MOHAN
Judge

jj

/True copy/