

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

W.P.(C).No. 4526 of 2010 (M)

PETITIONER(S):

1. INDIRABHAI B.,
HOUSE KEEPER GRADE-I, WATER SCAPES,
K.T.D.C., KUMARAKOM.
2. K.G. BINDHU,
HOUSE KEEPER GRADE-I, MUSCOT HOTEL,
K.T.D.C., THIRUVANANTHAPURAM.
3. B.R. RABITHA KURUP,
HOUSE KEEPER GRADE-I, MUSCOT SQUARE, CORPORATE H.O.,
MUSCOT HOTEL, K.T.D.C., THIRUVANANTHAPURAM.
4. LILLY K.UTHUP,
HOUSE KEEPER GRADE-I, BOLGATTY PALACE, ERNAKULAM.

BY ADV. SRI. S.MOHAMMED AL RAFI

RESPONDENT:

**KERALA TOURISM DEVELOPMENT CORPORATION,
REP. BY MANAGING DIRECTOR, MUSCOT HOTEL,
THIRUVANANTHAPURAM.**

BY ADV. SRI. P.A.AHAMMED, SC FOR KTDC LTD.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT. P-1: COPY OF THE ORDER NO.KTDC/PA(3)/3750/95 DTD. 1-3-95 ISSUED BY THE RESPONDENT.
- EXT. P-2: COPY OF THE ORDER NO.KTDC/PA(3)/3750/95 DTD. 16-8-97, ISSUED BY THE RESPONDENT.
- EXT. P-3: COPY OF THE REPRESENTATION DTD. 28.04.2009 BEFORE RESPONDENT, SUBMITTED BY THE 1ST PETITIONER.
- EXT. P-4: COPY OF THE REPRESENTATION DTD. 25.04.2009 BY THE PETITIONERS NO.2 TO 4 BEFORE THE RESPONDENT.
- EXT. P-5: COPY OF THE JUDGMENT DATED 08.09.2009 IN W.P.(C) NO.21437/09.
- EXT. P-6: COPY OF THE ORDER NO.KTDC/PA(1)/LC/2009 DATED 30.11.2009 ISSUED BY THE RESPONDENT.

RESPONDENT(S)' EXHIBITS

- EXT. R1(a): COPY OF THE PROCEEDINGS (ORDER) NO.KTDC/P&A-1/1492/91 DATED 13.02.1991.
- EXT. R1(b): COPY OF THE CIRCULAR NO.KTDC/PA1/7336/08 DATED 23.4.2008.
- EXT. R1(c): COPY OF THE ORDER NO.KTDC/PA1/7336/08 DATED 03.05.2008.

//TRUE COPY//

P.A. TO JUDGE

P.V. ASHA, J.

W.P.(C). No. 4526 of 2010

Dated this the 26th day of October, 2015

JUDGMENT

The petitioners are House Keepers working under the Kerala Tourism Development Corporation Limited ('KTDC' for short), with effect from 01.03.1995. Their grievance is that they are not treated on par with Receptionists who were also appointed along with them in identical circumstances in the same scale of pay and that the KTDC is taking a discriminatory approach towards them.

2. The petitioners were appointed as House Keepers as per Ext.P1 order dated 01.03.1995 and sent for induction training. On completion of their training, they were granted regular scale of pay of Rs.1200-2040, with effect from various dates from March, 1997.

3. On completion of 10 years' service petitioners were granted the first year Higher Grade in the scale of

pay of 4,600-7125. At the same time the Receptionist and Guest Relation Assistants who were appointed along with them in the very same scale of pay were granted 10 years' higher grade in the scale of pay of Rs. 5000-8150.

4. According to the petitioners, discrimination towards the House Keepers started on introduction of the time bound higher grade in KTDC by granting them a lower scale of pay as 10 years' grade. The petitioners had in their representation submitted on 28.04.2009 requested the respondents to grant them also the scale of pay of Rs. 5000-8150 as the first higher grade as in the case of receptionists. As, there was no positive action, they approached this Court in W.P.(C). No.21437/09 and by Ext.P5 judgment dated 08.09.2009 this court directed the respondent to consider their request in the representations. In Ext.P6 order, passed thereafter, it was stated that the time bound higher grades were granted as per the staff pattern and promotion policy

existed at the relevant time and implemented in the Corporation with effect from 13.02.1991 and that the same was introduced as a result of an agreement between the Management and the trade unions, arrived at on 02.06.1990, with a view to provide adequate opportunity for growth and career development of the workmen of the corporation and that it will remain in force, till the promotion policy is replaced by another one. It was further stated that the House Keepers were having 1st time bound higher grade on completion of 10 years, the second higher grade on completion of another 10 years and third Higher Grade on completion of total of 25 years. At the same time the Receptionists were having only two higher grades i.e., on completion of the first 10 years and the second higher grade on completion of a further period of 10 years.

i.e the high grades of house keepers in the revised scale of pay of 6680-10790 are as follows.

7,990-12930(10 years)→8,790-13610(20 years)
→9,190-15,510(25 years)

whereas the higher grades for Receptionists and other similar categories in the revised scale of pay of Rs. 6680-10790 are

8,390-13,270 (10 years)→ 1079-18000(20 years)

It was further informed that the scale of pay was being revised as per the proposed promotion policy for the categories of Receptionist, Assistant Cook, Waiter and House Keeper as 6,680-10790 → 7,480-11910 → ₹ 8,390-13,270 → 9,190-15,510. The representation was rejected saying that there was no discrimination.

5. Aggreived by this petitioners have approached this court again challenging Ext.P6 order and for a direction to the respondent to rectify the anomaly by revising their pay on par with that of Receptionists.

6. The Respondents have filed counter affidavit

and additional counter affidavit defending Ext.P6 order. According to them the time bound higher grade promotion are granted on the basis of Staff Pattern and Promotion Policy implemented in the corporation based on an agreement between Management and trade unions on 02.06.1990.

7. At the same time the respondent have admitted that Receptionist as well as House Keepers are included in the category of workman Gr.VII and scale of pay at the time of induction in to these posts is one and same. The difference arose only at the time of granting higher grade. It is also pointed out that qualification fixed are graduation level with training qualification in the respective categories.

8. The contention of the respondent regarding the qualification prescribed for the posts and the promotion policy of 2010 as stated in paragraph 8 of the counter affidavit is relevant, which is as follows:

"8. Regarding the averments contained in Ground B of the Writ Petition it is submitted that the Statement that the posts of House Keeper, Receptionist, Guest Relation Assistant come with the same category with same scale of pay as per the Staff Pattern is true as they are included under Workmen Category VII. But the qualification, experience and duties and responsibilities for each post are different. The qualification for the post of House Keeper fixed in the Staff Pattern was "Certificate in House Keeping from Food Craft Institute. But for the post of Receptionist, the qualification was as follows:-

- (i) Certificate in Hotel Reception and Booking Keeping from Food Craft Institute.*
- (ii) Ability to speak Malayalam, English and Hindi.*
- (iii) Knowledge of foreign languages desirable"*

9. In the additional counter affidavit it is stated that as per the new promotion policy the scale of pay has been revised with effect from 01.07.2009. The relevant portion of the additional counter affidavit is as follows:

"The induction scales in respect of the posts are same. As per the KTDC recruitment Staff pattern and Promotion Policy rules 2010 implemented with effect from

22.06.2010 with the approval of the Government, the post of Accountant/Cashier, Receptionist, Guide, Assistant Cook, Waiter, Overseer, Head Gardener, Guest Relation Assistant, House Keeper, Senior Bill Clerk, Linen keeper, Senior Store Man, Senior Recorded in Charge, Boat Driver Gr.I, Boat Syrang Gr.I etc were included in the work man grade VII with same induction scale of Rs.6680 - 10790 (revised as 11620 - 20240 with effect from the Pay Revision from 01.07.2009). But the channel of promotion and time bound promotion are different for each category as given below"

10. As per the 2010 revision, the scale of pay for all the higher grades of Receptionists is the same as that of House Keepers. But in the case of existing Receptionists the prevailing higher grades would be protected. Receptionist in the scale of ₹6,680-10,790 can become Receptionist Gr.I in the scale of pay of ₹7,480-11,910 and then a Senior Receptionist in the scale of pay of ₹8,390-13,270 and then as a Supervisor in the scale of pay of ₹9,190-15,510. At the same time the House Keeper in the scale of pay of ₹6,680-10,790 becomes House Keeper Gr.I

in the scale of pay of ₹7,480-11,910 and then a Senior House Keeper in the scale of pay of ₹8,390-13,270 and a Supervisor in the scale of pay of ₹9,190-15,510.

11. It further provides that prevailing higher grade of time bound higher grade will be protected to the existing employee in the category of Receptionist as on the date of implementation of this policy. The petitioners submit that by of this protection granted to the existing employees, the anomaly will continue despite the introduction of the same scale of pay for all the posts in workmen category VII even on implementation of the promotion policy of 2010.

12. I heard the learned counsel appearing for the petitioner as well as the learned Standing Counsel for the respondent.

13. It is seen that the Housekeepers as well as Receptionists come under workmen category VII and the qualification prescribed for them is graduation with

experience/graduation & certificate course. The scale of pay of all the posts in Workmen category VII including that of Receptionist and House keeper at the time of initial appointment is 1,200-2,040, as revised from time to time. But when coming to grade promotions, the receptionists and Guest Relation Assistants are given higher scale of pay. Eventhough the respondent says that the higher pay for them is fixed based on the promotion policy, staff pattern, etc evolved by agreement between Management and employees union, no provision is seen in Ext R1(a) -promotion policy and staff pattern, which provides for either the scale of pay for the higher grades or the higher pay scale for the time bound higher grades in the case of receptionists. Going by the pleadings it is clear that all those in the workmen category VII were treated alike till they complete 10 years. But once higher grade is granted they are placed in different scales of pay. Even though 3 higher grades are given for House

Keepers, the scale of pay of even the 3rd higher grade of the House Keeper is a lower scale than that of the 2nd higher grade of Receptionists. Therefore, it can be seen that the petitioners are having genuine grievance, as pointed out by them.

15. But it is to be noted that it is for the employer to decide the scale of pay to be granted to each of the posts under it depending upon various factors including the qualification, duties and responsibilities attached to the post, etc. However it is seen that the respondents have in the 2010 promotion policy provided for the very same scale of pay for the higher grades admissible to the House Keepers as well as Receptionists, though it protects the higher scale of pay being enjoyed by the existing Receptionists. From this it is evident that the respondents themselves have recognised the claim of the petitioners to be treated on par with the receptionists.

16. The petitioners have another grievance that the

chances for regular promotion available for House Keepers are also meagre, compared to those available to Receptionists. Anyway these are all matters to be considered by the employer. Just because the petitioners and those in the post of Receptionists were treated alike at the time of their recruitment and thereafter again consequent to the 2010 promotion policy, this court will not be justified in directing to treat the petitioners on par with those in another post, even when it is seen that both these posts are included in category VII and that there is genuine grievance for the petitioners. These are matters which require reconsideration at the end of the respondent, , especially in the background of the new promotion policy extending the same scale of pay for the higher grades of these posts under the category VII.

In the above circumstances, I direct the respondent to reconsider the claim of the petitioners-House keepers- to treat them on par with the Receptionists, who are also

included in Workmen Category VII, after affording them an opportunity of hearing and to pass orders, within a period of 4 months from the date of receipt of a copy of the judgment.

With the above observations, this writ petition is disposed of.

Sd/-
P.V. ASHA
JUDGE

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