

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN**

**MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937**

**WP(C).No. 17030 of 2003 (B)**  
-----

**PETITIONER:**  
-----

**C.K. JAYARAM, OVERSEER  
ELECTRICAL MAJOR SECTION, K.S.E. BOARD  
THOPPUMPADY, KOCHI-5.**

**BY ADVS.SRI.T.A.SHAJI  
SRI.M.A.ASIF**

**RESPONDENTS:**  
-----

- 1 KERALA STATE ELECTRICITY BOARD  
VYDYUTHI BHAVANAM, PATTAM, THIRUVANANTHAPURAM  
REPRESENTED BY ITS SECRETARY.**
- 2 CHIEF ENGINEER (HRM)  
KERALA STATE ELECTRICITY BOARD  
VYDYUTHI BHAVANAM, PATTAM  
THIRUVANANTHAPURAM.**

**BY SRI.T.G.RAJENDRAN SC, K.S.E.B.  
SRI.C.K.KARUNAKARAN, SC, KSEB  
SRI.P.SANTHALINGAM, SC, KSEB**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-10-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**APPENDIX**

**PETITIONER'S EXHIBITS :-**  
-----

- EXT.P1        -        COPY OF THE BOARD ORDER NO.PS1/1390/79 DATED  
28.08.1981 AND ALSO THE RELEVANT EXTRACT OF THE  
ANNEXURE-I (B).
- EXT.P2        -        COPY OF THE ORDER ISSUED BY THE RESPONDENT  
GRANTING GRADE PROMOTION TO PERSONS SIMILARLY  
PLACED ON COMPLETION OF 10 YEARS IN THE ERSTWHILE  
LICENCEE.
- EXT.P3        -        COPY OF THE ORDER DATED 10.02.1998 OF THE  
2ND RESPONDENT.
- EXT.P4        -        COPY OF THE ORDER DATED 23.07.1999 ISSUED BY THE  
ACCOUNTS OFFICER (PAY FIXATION).
- EXT.P5        -        COPY OF THE REPRESENTATION DATED 22.07.2002  
SUBMITTED BY THE PETITIONER BEFORE THE  
1ST RESPONDENT.
- EXT.P6        -        COPY OF THE JUDGMENT DATED 29.07.2002 IN O.P. NO.21242  
OF 2002 OF THIS COURT.
- EXT.P7        -        COPY OF THE ORDER NO.LAS.III/13539/2002 DATED 07.03.2003  
OF THE 1ST RESPONDENT.

**RESPONDENTS' EXHIBITS:- NIL**  
-----

**//TRUE COPY//**

**P.A. TO JUDGE**

**sp**

**K. VINOD CHANDRAN, J.**

-----  
**W.P(C). No.17030 of 2003**  
-----

**Dated this the 12<sup>th</sup> day of October, 2015.**

**JUDGMENT**

The petitioner is aggrieved with the fact that the petitioner had been drawing pay lower than that of the juniors of the petitioner. The petitioner, admittedly, was appointed in the Cochin Electric Company as a Line Helper on 04.08.1970 and then promoted as a Meter Mechanic on 04.08.1977. The petitioner was absorbed in the respondent Board when the respondent Board took over the Cochin Electric Company in the year 1979, as Meter Mechanic. The petitioner was promoted as Assistant Lineman and is said to have been retired from the said post. The petitioner's claim is with respect to the Higher Grade to be sanctioned. The petitioner also claims that the petitioner's prior service in the Cochin Electric Company ought to have been reckoned, as is evident from Ext.P2. The juniors of the petitioner, who joined the Cochin Electric Company much after the

petitioner, stole a march over the petitioner, in so far as the monetary benefits, for reason of the petitioner having been declined the said Higher Grade.

2. A reading of Ext.P7 would indicate that the petitioner was found to be not similar to the others. The petitioner admittedly was given a promotion when he was in the Cochin Electric Company. That in fact disentitles him from grant of Higher Grade, taking the effective date of appointment as the initial appointment. However, since the petitioner's contention was that, he was appointed as a Meter Mechanic on 04.08.1977, he ought to have received the Higher Grade after ten years, on 04.08.1987. The petitioner was declined the Higher Grade only for the reason of the fact that the petitioner was absorbed in the post of Assistant Lineman and was granted the Higher Scale of pay in the post of Senior Assistant Lineman for reason of integration and re-designation of the said post. The fixation of pay, so made in the Higher Scale, according to the Board, disentitled him from reckoning his eligibility for further Higher Grade promotion in the year 1987, since the petitioner is treated

to have been promoted on 01.08.1986.

3. However, it is to be noticed that only by reason of this, the juniors stole a march over the petitioner, in so far as the monetary benefits given to them. They were granted the Higher Grade with reference to their date of appointment in the Cochin Electric Company. The persons mentioned therein were admittedly juniors to the petitioner in the Cochin Electric Company. The petitioner was disentitled from a Higher Grade only by reason of a promotion having been given during the service in the Cochin Electric Company and having been given a higher fixation of pay. That however cannot work to his prejudice, in so far as the petitioner being granted a pay lesser than of the admitted juniors.

In such circumstances, it would have been ideal, if the petitioner was given a step-up in pay atleast to match the pay drawn by his juniors in service, as has been stated in ***Gurcharan Singh Grewal and Another v. Punjab State Electricity Board and Others [(2009) 3 SCC 94]***. In such circumstances, though the Higher Grade cannot be granted to the petitioner,

going by the facts stated above, the petitioner's claim for a step-up has to be considered in accordance with law and also in accordance with the decision cited above. Ext.P2, to this extent, has to be set aside. I do so. The petitioner shall produce a copy of this judgment before the authorities and the authorities shall consider the issue as directed herein above within two months thereafter and the petitioner shall also be entitled to be paid the benefits, if such step-up is ordered.

The writ petition is disposed of.

Sd/-

**K. VINOD CHANDRAN,  
JUDGE**

sp

//True Copy//

P.A. to Judge.