IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 8TH DAY OF SEPTEMBER 2015/17TH BHADRA, 1937

WP(C).No. 17252 of 2003 (D)

PETITIONER:

G.RAMACHANDRAN NAIR, ASSISTANT MANAGER (ACCOUNTS)
KERALA STATE TEXTILE CORPORATION LTD.
THIRUVANANTHAPURAM.

BY ADVS.SRI.C.P.SUDHAKARA PRASAD (SR.)
SRI.ELVIN PETER P.J.
SRI.S.RAMESH
SRI.P.N.SANTHOSH
SRI.S.D.ASOKAN
SRI.NAVEEN.T

RESPONDENTS:
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1. **STATE OF KERALA, REP. BY THE SECRETARY INDUSTRIES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**

2. **KERALA STATE TEXTILE CORPORATION LTD. REP. BY ITS MANAGING DIRECTOR, THIRUVANANTHAPURAM.**

R2 BY ADV. SRI.B.S.KRISHNAN (SR.)
R2 BY ADV. SRI.K.ANAND (A.201)
R2 BY ADV. SMT.LATHA KRISHNAN
R1 BY ADV. GOVERNMENT PLEADER SRI. S. JAMAL
R2 BY ADV. SRI.M.HARSHAN,SC,KSTC,K.S.TEXTILE CORPN
R2 BY M/S.B.S.KRISHNAN & ASSOCIATE, SC.KSTC
R2 BY SRI.V.E.ABDUL GAFOOR SC KERALA STATE TEXTILE CORPO

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 17252 of 2003 (D)

APPENDIX

PETITIONER'S EXHIBITS

P1	:	TRUE COPY OF THE ORDER DATED 20.9.77 ISSUED TO THE PETITIONER
P2	:	TRUE COPY OF THE ORDER DATED 5.3.80 ISSUED TO PETITIONER
P3	:	TRUE COPY OF THE ORDER DATED 12.3.80 ISSUED TO PETITIONER
P4	:	TRUE COPY OF THE ORDER FIXING PAY OF THE PETITIONER DATED 17.4.81
P5	:	TRUE COPY OF THE ORDER DATED 27.1.83 ISSUED BY THE 2ND RESPONDENT
P6	:	TRUE COPY OF THE ORDER DATED 5.3.87 ISSUED TO THE PETITIONER
P7	:	TRUE COPY OF THE ORDER DATED 30.11.87 ISSUED TO PETITIONER
P8	:	TRUE COPY OF THE ORDER DATED 8.3.89 ISSUED TO PETITIONER
P9	:	TRUE COPY OF ORDER DATED 11.10.1994 ISSUED BY THE 2ND RESPONDENT
P10	:	TRUE COPY OF ORDER DATED 1.8.1998 ISSUED BY THE 2ND RESPONDENT
P11	:	TRUE COPY OF ORDER, G.O.RT. 373/88/ID. DATED 28.3.1988 ISSUED BY GOVT.
P12	:	TRUE COPY OF JUDGMENT DATED 3RD FEBRUARY, 1998 IN O.P. 2696/1991 OF THIS HON. COURT
P13	:	TRUE COPY OF ORDER DATED 31.7.1989 ISSUED BY THE GOVERNMENT
P14	:	TRUE COPY OF LETTER DATED 6.5.2003 ISSUED BY THE 2ND RESPONDENT
P15	:	TRUE COPY OF STATEMENT SHOWING THE DESCRIMINATION TOWARDS THE PETITIONER IN RESPECT OF PROMOTION.
P16	:	TRUE COPY OF THE ORDER (MEMORANDUM) DATED 3.12.1987 ISSUED BY THE 2ND RESPONDENT.
P17	:	TRUE COPY OF THE REPRESENTATION DT.27.1.2003 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT

P18	:	TRUE COPY OF THE REPRESENTATION DT.7.9.1983 SUBMITTED BY THE PETITIONER TO THE ADVISOR (PRODUCTION) OF THE CORPORATION
P19	:	TRUE COPY OF THE NOTIFICATION NO. HPU/35/627/88-89 DT.6.1.1989 ISSUED BY THE OFFICER-IN-CHARGE OF THE HOSIERY PROCESSING UNIT ADDRESSED TO THE D.L.O.
P20	:	TRUE COPY OF THE ORDER NO.P:227:92/314 DT.25.8.1989 ISSUED BY THE 2ND RESPONDENT
P21	:	TRUE COPY OF THE ORDER DATED 15.3.2010 ISSUED BY THE GOVERNMENT

RESPONDENT'S EXHIBITS:

R1A)	:	TRUE COPY OF THE ORDER DATED 22.05.84
R1(B)	:	TRUE COPY OF THE ORDER DATED 16.05.88
R1(C)	:	TRUE COPY OF THE OPTION
R1(D)	:	TRUE COPY OF THE ORDER GRANTING PAY REVISION TO THE PETITIONER
R1(E)	:	TRUE COPY OF THE ORDER SPECIFIED RETIREMENT AGE WAS ENHANCED
R1(F)	:	TRUE COY OF THE ORDER SPECIFIED REDUCING THE AGE OF RETIREMENT AS 55 YEARS
R1(G)	:	TRUE COPY OF THE ACCEPTANCE OF EXT.P6 ORDER
R2(A)	:	TRUE COPY OF THE LETTER DT.3.3.80 FROM THE CHAIRMAN & MG. DIRECTOR TO THE OFFICER-IN-CHARGE, BLEACHING & CALENDERING PLANT, PAPPANAMCODE
R2(B)	:	TRUE COPY OF LETTER DT.2.5.84 FROM THE SECRETARY TO MANAGER (KELASTIC)
R2(C)	:	TRUE COPY OF CIRCULAR DT. 16.5.88 OF THE 2ND RESPONDENT CORPORATION
R2(D)	:	TRUE COPY OF OPTION FOR REVISED SCALE OF PAY DT.25.5.88 FROM THE PETITONER

R2(E)	:	TRUE COPY OF LETTER DT.28.5.88 OF THE 2ND RESPONDENT CORPN.
R2(F)	:	TRUE COPY OF OFFICE ORDER DT.30.8.96 OF THE 2ND RESPONDENT CORPN.
R2(G)	:	TRUE COPY OF OFFICE ORDER DT. 15.5.97 OF THE 2ND RESPONDENT CORPN.
R2(H)	:	TRUE COPY OF PROCEEDINGS OF MANAGING DIRECTOR OF THE 2ND RESPONDENT CORPN. DT.5.3.1987

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 17252 of 2003 (D)

Dated this the 8th day of September, 2015

<u>J U D G M E N T</u>

The petitioner is aggrieved with the fact that the petitioner was not continued for 58 years, despite his having been regulated by the service conditions applicable to the Mills/Units of the 2nd respondent Corporation.

2. The petitioner was appointed as an Assistant as per Ext.P1 and had also been regularised as the General Assistant in the Bleaching and Calendering Plant at Pappanamkode, on the terms and conditions as per Ext.P2 dated 5.3.1980. Ext.P3 is the order of the Bleaching and Calendering Plant dated 12.3.1980, wherein it is stated that he would be governed by the rules and regulations that are applicable and in force to the clerical and ministerial staff of Mills of the Corporation. Placing reliance on the same, the petitioner contends that the petitioner's service if regulated by the regulations applicable to the Mills/Units of the

Corporation, then he is liable to retire only at 58 years. The petitioner had been continued in the units of the Corporation for more than 14 years and on certain Units being closed down, the petitioner was eventually transferred to the Head Office as per Ext.9 on 11.10.1994. The service conditions cannot be altered on such transfer, is the contention.

3. The learned counsel for the petitioner argues that the service conditions applicable to the employees in the Corporation and Units were different and even after the transfer of the petitioner to the Head Office, the petitioner is deemed to be regulated by the service conditions applicable to employees in the Mills of the Corporation. To evidence the disparity in service conditions with respect to the employees of the Units and the Head Office of the Corporation, the petitioner also points to Ext.P12 judgment of this Court where it was held that there was no ground for ordering a parity.

4. The Government has filed a detailed counter affidavit, in which it is noticed that the petitioner's initial appointment itself was governed by the terms and conditions of the Head Office of the Corporation. The said contention would stand against the order relied on by the petitioner at Ext.P3. It is also to be noticed that Ext.P3 has been issued by the Unit and it is the Corporation which has to decide on the service conditions of an employee under it.

5. The petitioner was governed by the terms and conditions of the Head Office of the Corporation, as has been asserted by the Corporation. To substantiate the same, the Corporation has listed out the disparity in the service conditions of the employees in the Head Office and that in the Mills/Units. Going by the same, the employees governed by the terms and conditions of the Head Office regulations are entitled to encashment of 45 days Earned Leave, while the employees in Mills/Units are entitled only to encashment of 30 days of Earned Leave. As early as in the year 1984, as per Ext.R1(a), the petitioner, a General

Assistant, was granted encashment of 45 days' Earned Leave. It is also seen that the same was granted pending finalisaiton of his leave and other service regulations. Subsequently, the Head Office staff were given a revision of pay as per Ext.R1(b), which was made applicable to the petitioner with effect from 1.4.1984, as is indicated at Ext.R1(c).

6. In such circumstance, it is very clear that the petitioner, though had been working in the Unit, the Corporation treated the petitioner as a staff governed by the Head Office regulations. In this context, Ext.P12 judgment can also be looked into. Noticing the disparity between the pay scales of the employees in the Mills and the Head Office, this Court held that there could be no parity, since different establishments could be treated differently by an employer.

7. In Ext.P12, the submission of the respondent Corporation that from 1.4.1990 parity had been introduced, is also seen recorded. Hence, prior to 1.4.1990 there was

disparity in the pay scales and the Head Office staff were granted a higher pay scale than that to the employees in the Mills/Units. The petitioner, even as per Ext.R1(c) as on 1.4.1984, was fixed in the pay scale applicable to the Head Office staff and the petitioner had also been treated as a Head Office staff granting the additional benefits applicable to such staff. Presumably, it is on such higher benefits being applicable to the staff of the Head Office, the retirement age was fixed at 55 years. The petitioner on being transferred to the Head Office, continued as a Head Office employee and was superannuated on his attaining 55 years of age. In such circumstance, no infirmity can be found on such superannuation.

8. The petitioner having enjoyed the benefits available to the Head Office staff, while in employment, even when he was attached to the Mills/Units, cannot claim additional years of service merely on the ground of his having been appointed and then continued for long in the Units/Mills. The petitioner thus would be given a double

benefit; which would lead to discrimination. The petitioner's superannuation has to be in accordance with the service conditions he is governed under.

The Writ Petition is devoid of merit and the same would stand dismissed. The parties are left to suffer their respective costs.

Sd/-
K.VINOD CHANDRAN,
JUDGE

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