

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

WP(C).No. 1864 of 2015 (G)

PETITIONER :

**SHAMIR A.,
S/O.ABDUL LATHEEF, KOTTASSERIL, S.V.MARKET P.O.,
KARUNAGAPPALLY, KOLLAM-690 573.**

BY ADV. SRI.SAJEEV KUMAR K.GOPAL

RESPONDENT(S):

- 1. THE KERALA MINERALS AND METALS LIMITED,
SANKARAMANGALAM, CHAVARA, KOLLAM,
PIN-691 583, REPRESENTED BY ITS MANAGING DIRECTOR.**
- 2. THE MANAGING DIRECTOR,
THE KERALA MINERALS AND METALS LIMITED,
SANKARAMANGALAM, CHAVARA, KOLLAM,
PIN-691 583.**

**R1 & R2 BY ADVS. SRI.E.K.MADHAVAN
SRI.V.KRISHNA MENON
SMT.P.MJAYAMMA
SMT.J.SURYA
SRI.PRINSUN PHILIP**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-03-2015 , ALONG WITH WPC.NO. 2697/2015 AND WPC.NO. 4213/2015,
THE COURT ON 13-03-2015 DELIVERED THE FOLLOWING:**

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WP(C).No. 1864 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT P1 : TRUE COPY OF THE OFFER OF APPOINTMENT TO THE PETITIONER
ISSUED BY THE RESPONDENTS DATED 16-07-2013.**

**EXT P2 : TRUE COPY OF THE COMMUNICATION TO THE PETITIONER ISSUED
BY THE RESPONDENTS DATED 23-07-2014.**

**EXT P3 : TRUE COPY OF THE NOTIFICATION APPEARED IN MALAYALA
MANORAMA DAILY DATED 10-09-2014.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.S.TO.JUDGE

sts

A.MUHAMED MUSTAQUE, J.

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**W.P.(C).Nos.1864/2015, 2697/2015 and 4213/2015**  
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Dated this the 13th day of March, 2015

J U D G M E N T

These writ petitions are filed by employees working on contract basis in the Titanium Sponge Plant, a joint venture project of the Vikram Sarabhai Space Centre and the Kerala Minerals and Metals Ltd. (for short, "KMML"). They approached this Court apprehending termination consequent upon appointing candidates pursuant to Ext.P10 advertisement produced in W.P.(C).No.2697/2015.

2. Ext.P10 was issued on 10/09/2014 inviting application for appointment to various posts in KMML. The preferences for appointment are also indicated in the notification. The preferences are for those who are evicted from the land for the purpose of project

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and also to personnels who were engaged from nearby Panchayat to work in the site belonged to KMML on contract basis. It is submitted that a decision has been taken in various meetings of Joint Plant Management Committee to engage petitioners even after the period of contract till regular recruitments are made. Therefore, any engagement other than regular appointment is illegal and unsustainable.

3. In W.P.(C).No.2697/2015 a statement has been filed on behalf of the first respondent/KMML. It is stated that Titanium Sponge Unit was set up by a Memorandum of Understanding entered into between Vikram Sarabai Space Centre, Indian Space Research Organisation, Department of Space, Government of India and KMML. It is further submitted that the writ petitions are not maintainable as the unit referred is related to a specific project envisaged under the memorandum of understanding. It is further contended that the period of contract of the petitioners was about to expire and requisition was made to the

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Employment Exchange to publish a notification in the newspaper to enable persons belonging to preferential categories to apply. It is further submitted that the notification issued is in accordance with the relevant Government Order.

4. The notification which is under challenge before this Court is for appointment based on contract basis. Petitioners' complaint is that in view of the various decisions taken in the meetings of the Joint Plant Management Committee, they are entitled to continue till regular recruitments are made. They rely on Ext.P4 produced in W.P.(C).No.2697/2015 and other decision to substantiate their contentions. The challenge now is in respect of Ext.P10 in W.P.(C).No.2697/2015 inviting applications from certain preferential categories based on Government Orders. This clearly indicates that cause of action due to the petitioners is upon a decision based on a Government Order. Further, it is to be noted that even for a specific project, all these State instrumentalities had

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entered into an agreement in discharge of a public function. In that view of the matter also these writ petitions are maintainable.

5. The petitioners have no right to continue beyond the period of contract. The decision to meet exigencies of the project cannot confer a right on an employee. The decision has been arrived in a joint meeting for smooth execution of the project. That itself will not create a right on the petitioners to demand continuity of employment. It is for the employer to decide in what manner the project is to be executed. The notification now issued is to give employment to those who have been evicted from land. This Court cannot interfere with such decision unless that infringes the right of the petitioners. The petitioners should be continued to be engaged or not is a matter for the employer to decide. However, considering various decisions taken in the joint meeting for any of the vacancies left after the appointment of the persons in the notification, in

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public interest, petitioners can be engaged till regular recruitments are made. In the result, the writ petitions are disposed of with the following directions:

i. The respondents are free to appoint persons referred in the notification for any of the vacancies.

ii. The petitioners shall be engaged for any of the unfilled vacancies after appointment of persons referred in the notification till regular recruitments are made.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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