

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY,THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 5621 of 2008 (T)

PETITIONER(S):

1. JAFFER K, S/O. MAMMU
AGED 36, PROPRIATOR, J.F.C. FRUITS CENTRE
TALIPARAMBA, KANNUR DIST.
2. K.V.SHAFEEQUE, S/O.ABU
MAIN ROAD, TALIPARAMBA.
3. MUTHALIB.P, S/O.HASSAN,
POOMANGALLOORAKATH HOUSE, KARIAMBALAM, TALIPARAMBA.
4. RASHEED.K., S/O. SADULI
KUTTUKKAN VEEDU, PULIMBARAMBA, TALIPARAMBA.
5. VAHID.V.M,S/O.MUSTHAF
VARAMBU MURIAN VEEDU, PULIMBARAMBA, TALIPARAMBA.]

BY ADV. SRI.P.NARAYANAN

RESPONDENT(S):

1. THE DISTRICT LABOUR OFFICER
KANNUR.
2. THE CHAIRMAN,LOCAL COMMITTEE FOR KERALA
HEAD LOAD WORKERS WELFARE FUND BOARD
CIVIL STATION KANNUR.,
3. C.ABDUL RZAK, S/O.MAMMU
CHULLIYODAN, STU MEMBER, TALIPARAMBA MARKET
THALIPARAMBA.
4. PARAPURATH ISMAYIL S/O. MOIDEEN
STU MEMBER, TALIPRAMBA MARKET, THALIPARAMBA.
5. CHERUKUNNONTAKATH ASHRAFS/O. MAMMU
STU MEMBER, TALIPRAMBA MARKET, THALIPARAMBA.

6. PARAPURATH ASHRAFS/O. MOIDEEN
STU MEMBER, TALIPRAMBA MARKET, TALIPARAMBA.
7. K.P.ASEEN, S/O.HAMSA,STU MEMBER,
TALIPARAMBA MARKET, TALIPARAMBA.
8. K.ISMAYIL,S/O.MUHAMMED,STU MEMBER,
TALIPARAMBA MARKET, TALIPARAMBA.

BY SRI.O.V.MANIPRASAD
BY ADV. SRI.JOY GEORGE, SC, KHWWB
BY GOVERNMENT PLEADER SRI. MANOJ KUNJACHAN
BY SRI.KOSHY GEORGE, SC, KHLWWB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXHIBITS

- P1- COPY OF THE JUDGMENT DATED 11.2.2005 IN WP(C).4613 OF 2005
- P2- COPY OF THE JUDGMENT DATED 11.8.2005 IN WP(C).19660 OF 2005
- P3- COPY OF THE ORDER NO.55 OF 2005 DATED 27.12.2005 PASSED BY THE ALO
- P4- COPY OF THE JUDGMENT IN WPC. 15799 OF 2006
- P5- COPY OF THE APPEAL FILED AGAINST EXT.P3 BY R3 TO R8
- P6- COPY OF THE COUNTER STATEMENT FILED BY THE PETITIONERS
- P7- COPY OF THE DEPOSITIONS RECORDED BY R1 IN THE APPEAL
- P8- COPY OF THE JUDGMENT DATED 14.8.2007 IN WP(C).18790 OF 2007
- P9- COPY OF THE ORDER NO.G3/1941/04 (ii) DATED 29.1.2008 PASSED BY R1

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P.S. To Judge

K.VINOD CHANDRAN, J

W.P.(C).No. 5621 of 2008

Dated 12th March, 2015

JUDGMENT

The issue agitated in the above writ petition is as to whether existing employees of an establishment could seek registration under Rule 26A of the Kerala Head Load Workers Rules, 1981, if they had not been engaged as a head load worker prior to such application.

2. The petitioners herein are the owner of the establishment and their employees who sought registration under Rule 26A, which was granted. However, The ground on which registrations were cancelled was that the employees who sought for registration were the salesmen of the establishment and not head load workers.

3. Essentially it is to be noticed that

none could carry on head load work in a notified area without registration under Rule 26A of the Rules. An establishment, which has loading and unloading work and does not have anybody in its register with registration under Rule 26A, definitely will have to employ the pool workers.

4. The employer all the same has the competence to appoint workers, even existing workmen, as head load workers and also seek registration under Rule 26A. That was precisely what was done in the present case. The question of existing workers, being entitled to be registered under Rule 26A, is no longer *res integra*, since this Court has in **Rajeev v. District Labour Officer (2010 (4) KLT 783)** held in favour of such employees seeking registration. In such circumstances, Ext.P9 order would stand set aside, on the basis of the binding precedent. The registration granted to

the petitioners would be upheld.

The writ petition is allowed. Parties are left to suffer their respective costs.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

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