

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

WP(C).No. 2576 of 2015 (V)

PETITIONER(S):

A.J.JOSEPH, AGED 57 YEARS
(BLACK SMITH, KSRTC, THAMARASSERY DEPOT,
RETIRED ON 31.7.2012) EDOOR HOUSE, KOODATHAI P.O.
(VIA) THAMARASSERI, KOZHIKODE DISTRICT

BY ADV. SRI.K.P.RAJEEVAN

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY
TRANSPORT (A) DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM PIN - 695001.
2. KERALA STATE ROAD TRANSPORT CORPORATION
REPRESENTED BY ITS MANAGING DIRECTOR, TRANSPORT
BHAVAN, FORT, THIRUVANANTHAPURAM
PIN - 695023
3. ASSISTANT TRANSPORT OFFICER
K.S.R.T.C, THAMARASSERY DEPOT, THAMARASSERY
KOZHIKKODE DISTRICT, PIN - 673 573

R2 & 3 BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR, SC, KSRTC
BY SMT.THUSHARA JAMES, SC, KSRTC.
R BY GOVERNMENT PLEADER SRI.GIKKU JACOB.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1-A TRUE COPY OF MEMORANDU DATED 18/12/1997 ISSUED BY THE WORKS
MANAGER, REGIONAL WORKSHOP, KOZHIKODE OF THE RESPONDENT
CORPORATION

EXT.P2- A TRUE COPY OF GOVT. ORDER DATED 13.10.1999

EXT.P3- A TRUE COPY OF MEMORANDUM DATED 22.6.2005 ISSUED BY THE 1ST
RESPONDENT

EXT.P4- A TRUE COPY OF MEMORANDUM DATED 11.7.2005 OF THE WORKERS
MANAGER OF THE REGIONAL WORKSHOP, KOZHIKKODE

EXT.P5- A TRUE COPY OF PAGE NUMBERS 1 TO 3 OF PENSION PAYMENT ORDER

EXT.P6-A TRUE COPY OF GOVT. ORDER DATED 8.11.1996

EXT.P7- A TRUE COPY OF LETTER DATED 24.11.2008 RECEIVED BY THE PETITIONER
FROM THE DIRECTOR OF SOCIAL WELFARE DEPARTMENT

EXT.P8- A TRUE COPY OF JUDGMENT DATED 2.1.2013 IN WP(C) NO.23065 OF 2012

EXT.P9- A TRUE COPY OF GOVERNMENT ORDER NO. GO(RT) NO.316/2013/TRAN
DATED 24.6.2013

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE.

V.CHITAMBARESH, J.

W.P (C) No.2576 of 2015

Dated this the 9th day of July, 2015

J U D G M E N T

The petitioner who is deaf and dumb was provisionally appointed as Blacksmith in the Kerala State Road Transport Corporation (KSRTC) on 1.1.1998. His services ought to have been regularised with effect from Ext.P2 order passed extending benefits to physically handicapped persons during the Golden Jubilee year of India's Independence. But then the services of the petitioner were terminated on 25.6.2002 and he was regularised by Ext.P3 order on 22.6.2005. The petitioner who retired on 31.7.2012 seeks minimum pension on the basis of Ext.P6 Government Order as well as the judgment in Francis v. Kerala State Road Transport Corporation [2015 (1) KLT 1051 (LB)].

2. The Scheme of pension was liberalised to physically handicapped Government employees by Ext.P6 order. But Ext.P6 order has not been adopted by the KSRTC as revealed from the statement filed on their behalf in the writ petition. Ext.P9 order denying the benefit of Ext.P6 Government order to the petitioner in the matter of pensionary benefits cannot be faulted

with.

3. There is justification in the contention of the petitioner that his services ought to have been regularised with effect from Ext.P2 order. Ext.P3 order regularising his services with effect from 22.6.2005 however contains the following clause:-

4. Their prior service in KSRTC provisionally through Employment Exchange or by other mode if any will not be reckoned for their service or pensionary benefits under any circumstances.

The petitioner contends that there is no reason to deny him the benefit of the dictum in Francis's case when all other employees in the KSRTC have secured the benefit.

4. This Court in Ext.P8 judgment in W.P.(C) No.23065/2012 filed by the petitioner earlier observed as follows:-

6. However, taking into consideration the fact that the Government had already issued orders invoking Rule 11 of Part III of KSR and had relaxed the qualifying service of handicapped persons, it being a

beneficial order and KSRTC being an organization rendering public functions are also liable to consider such notification in order to enable its employees to get minimum pension in terms with Ext.P6. However, without issuing any direction in that regard, I direct the 2nd respondent in W.P.(C) No.33233/2010 and the 3rd respondent in W.P.(C) No.23065/2012 to consider whether the benefit of Ext.P6 order can be extended to the employees of KSRTC and whether such a direction can be issued to KSRTC also.

The question whether Ext.P3 order could be modified atleast for the purpose of pensionary benefits in the light of Francis's case has not been considered. This is especially so when the services of the petitioner ought to have been regularised with effect from Ext.P2 order dated 13.10.1999 itself. I direct the first respondent to reconsider this issue alone in the matter of granting pensionary benefits to the petitioner. The petitioner shall file a detailed representation to the first respondent in this regard within one month. Such representation shall be considered within two months therefrom after notice to the petitioner and the second

respondent. The question whether the provisional service rendered by the petitioner from 1.1.1998 till 25.6.2002 could be reckoned for pensionary benefits shall be considered.

The writ Petition is disposed of. No costs.

Sd/-
V.CHITAMBARESH,
Judge.

nj.