

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 5551 of 2013 (T)

PETITIONER(S) :

SHAJU K.K.,
ASSISTANT ENGINEER,
100 KV SUB STATION, EDAPPAL,
KALADY P.O., MALAPPURAM-679 582.

BY ADVS.SRI.P.ALI
SRI.A.MUHAMMED HASHIM.

RESPONDENT(S) :

1. ASSISTANT ENGINEER,
100 KV SUB STATION, EDAPPAL, KALADY P.O.,
MALAPPURAM -679 582.
2. CHIEF ENGINEER (HRM),
VYDHUTHI BHAVAN, PATTOM PALACE POST,
THIRUVANANTHAPURAM-695 004.
3. KERALA STATE ELECTRICITY BOARD,
REP BY THE SECRETARY,
VYDHUTHI BHAVAN, PATTOM,
THIRUVANANTHAPURAM.

BY SRI.K.S.ANIL, SC, KSEB.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 26-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT. P1- TRUE COPY OF THE REPRESENTATION DATED 11/11/2011.

EXT. P2- TRUE COPY OF THE REPLY DATED 14/12/2011.

EXT. P3- TRUE COPY OF THE G.O.(P) DATED 02/02/2001.

EXT. P4- TRUE COPY OF THE BOARD ORDER ADOPTING KSR DATED
10/12/2002.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A. MUHAMED MUSTAQUE, J.

W.P.(C) No.5551 of 2013

Dated this the 26th day of February, 2015

JUDGMENT

The petitioner is presently working as Assistant Engineer under the Kerala State Electricity Board (K.S.E.B). Before joining service of the K.S.E.B., the petitioner has prior service with Public Works Department, Industrial Training Department and Indian Railway. The petitioner submits that all his prior services are pensionable services and he is not either disqualified or rendered ineligible to draw pension from the service. The petitioner has approached the K.S.E. Board to reckon his prior services for the purpose of pension. The Board declined it by Ext.P2. Challenging Ext.P2, this writ petition is filed.

2. It is stated in Ext.P2 that the Board employees who were joined the Board on or after 19.03.2007 are not eligible to reckon the prior service rendered, as per the prevailing Long Term Settlements and Board orders. Therefore, the case of the Board is that the petitioner who joined the Board on 17.01.2011 is not entitled to reckon his prior service for the purpose of pension.

3. The learned counsel for the petitioner, Shri P. Ali submits that the Board settlement cannot take away any right available to the petitioner in terms of statutory provisions. It submitted that the prior service rendered by the petitioner are service reckonable for the purpose of qualifying service for pension in terms of relevant statutory provisions. The learned counsel relied on the various provisions under Part-III of the Kerala Service Rules. Therefore, it is submitted that by the settlement entered into by the Board employees Union cannot be deprived of such service of employees.

4. The learned Standing Counsel for the K.S.E.B would submit that the petitioner fails to establish that the petitioner's prior services are reckonable for the purpose of qualifying service by the Board.

5. The reasoning in Ext.P2, according to me, is unsustainable. The prior services rendered by the petitioner if otherwise reckonable in terms of relevant statutory provisions, necessarily, that cannot be denied to the petitioner based on a long term settlement entered into by the Board. Those rights are statutory rights and cannot be deprived of on settlement entered between employees Union and the Board. The

petitioner's prior service was in fact in the Railway Board, Public Works Department and also Industrial Training Department. If these services are reckonable, necessarily, petitioner is entitled for reckoning the prior service, provided he is otherwise eligible to count those services.

6. Therefore, the petitioner shall produce relevant service records and also make available other materials to show that he was not otherwise disqualified or rendered ineligible to claim for pension from the aforesaid establishments and based on that, a decision shall be taken by the Board to reckon the above services of the petitioner. The Board shall take a decision in the matter within two months from the date of production of service records and other materials as directed by this Court along with a copy of the judgment. In view of the above, Ext.P2 is set aside.

The writ petition is disposed of as above.

Sd/-
A. MUHAMED MUSTAQUE,
JUDGE.

//true copy//

P.S. To Judge

st/-