

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 5TH DAY OF OCTOBER 2005/13TH ASWINA, 1937

WP(C).No. 13474 of 2005 (D)

PETITIONER(S):

**ELDOSE K.PAUL, AGED 32 YEARS,
S/O.K.O.POULOSE, DRAUGHTSMAN (MECHANICAL)
M.A.COLLEGE OF ENGINEERING, KOTHAMANGALAM.
RESIDING AT KANNOTHKUDIYIL HOUSE, KOTTAPPADY
KOTHAMANGALAM.**

BY ADVS. SRI.MILLU DANDAPANI

RESPONDENT(S):

- 1. DIRECTOR OF TECHNICAL EDUCATION,
THIRUVANANTHAPURAM.**
- 2. JOINT DIRECTOR,
REGIONAL DIRECTORATE OF TECHNICAL EDUCATION
KOTHAMANGALAM.**
- 3. MANAGER/CHAIRMAN,
GOVERNING BODY OF MAR ATHANAOSIOUS COLLEGE
OF ENGINEERING (M.A.COLLEGE), KOTHAMANGALAM.**
- 4. P.M.VARGHESE, TRADESMAN,
M.A.COLLEGE OF ENGINEERING, KOTHAMANGALAM.**
- 5. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT
HIGHER EDUCATION DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM.**

**R,R4 BY ADV. SRI.K.JAJU BABU
R,R4 BY ADV. SMT.M.U.VIJAYALAKSHMI
R,R4 BY ADV. SRI.BRIJESH MOHAN
R,R1 BY ADV. GOVERNMENT PLEADER
R3 BY ADV. SRI.GEORGE JACOB (JOSE)**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 05-10-2005, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONERS EXHIBITS:

- EXT.P1 COPY OF THE G.O(P) NO.45/75/H.EDN. DATED 17.3.75 ISSUED BY THE GOVT. OF KERALA.
- EXT.P1(A) COPY OF THE G.O(MS) NO.24/89/H.EDN. DATED 28.1.89 ISSUED BY THE GOVT.OF KERALA.
- EXT.P2 COPY OF LETTER BEARING NO.DP2/34422/98 DTD.28.11.98 ISSUED BY THE 1ST RESPONDENT.
- EXT.P3 COPY OF THE FAX MESSAGE REGARDING THE REJECTION OF THE CLAIM MADE BY THE 4TH RESPONDENT.
- EXT.P4 COPY OF THE JUDGMENT IN OP NO.21036/2000 DATED 7.7.04 OF THIS HON'BLE COURT.
- EXT.P5 COPY OF THE JUDGMENT IN W.A NO.1202/94 OF THIS HON'BLE.
- EXT.P6 COPY OF THE ORDER DTD.3.4.98 IN CIVIL APPEAL NO.1899-1900 OF 1998 OF THE HON'BLE SUPREME COURT.
- EXT.P7 COPY OF G.O(MS) NO.184/2000/H.EDN. DATED 30.11.2000 ISSUED BY THE GOVT. OF KERALA.
- EXT.P8 COPY OF THE ORDER BEARING NO.DP2/29944/2000 DTD.19.3.05 ISSUED BY THE 1ST RESPONDENT.
- EXT.P9 COPY OF THE ORDER DATED 28.1.05 ISSUED BY THE 3RD RESPONDENT.
- EXT.P10 COPY OF COMMUNICATION DTD.18.4.05 ISSUED BY THE 1ST RESPONDENT.
- EXT.P11 COPY OF PROMOTION ORDER NO.B1-2657/98 DTD.23.4.05 ISSUED BY THE 3RD RESPONDENT.
- EXT.P12 COPY OF ORDER NO.A2/1694/05/ DTD.8.12.05 ISSUED BY THE 2ND RESPONDENT.

RESPONDENTS EXHIBITS:

- EXT.R4(A) COPY OF ORDER NO.B1-1488/95(1) DTD.1.1.97 ISSUED BY THE 3RD RESPONDENT.
- EXT.R4(B0) COPY OF THE PROMOTION ORDER NO.61-2435/98(W) DTD.31.8.98 ISSUED BY THE 3RD RESPONDENT.

WP(C).No. 13474 of 2005 (D)

- EXT.R4(C) COPY OF JUDGMENT DTD.17.8.94 IN O.P. NO.5530 OF 1993 AND OP 2907/1999 OF THIS HON'BLE COURT.
- EXT.R4(D) COPY OF ORDER NO.B1-2435/98 DTD.30.11.98 ISSUED BY THE 3RD RESPONDENT.
- EXT.R4(E) COPY OF THE ORDER NO.NC.A2-1009/99 DTD.15.7.99 ISSUED BY THE 2ND RESPONDENT.
- EXT.R4(F) COPY OF THE ORDER N;.DP2/29944/2000 DTD.24.5.05 ISSUED BY THE 1ST RESPONDENT.
- EXT.R4(G) COPY OF COMMUNICATION NO.DP3/5884/06 DTD.16.6.06 ISSUED BY THE 1ST RESPONDENT TO THE PRINCIPAL OF M.A. COLLEGE OF ENGINEERING, KOTHAMANGALAM
- EXT.R4(H) COPY OF ORDER NO.B1-265/05 DTD.30.6.06 ISSUED BY THE 4TH RESPONDENT.
- EXT.R4(I) COPY OF ORDER NO,B1-265/05 DTD.30.6.06 ISSUED BY THE 4TH RESPONDENT HEREIN.

// TRUE COPY //

P.ATO JUDGE.

SB

K. VINOD CHANDRAN, J.

=====

W.P.(C) No.13474 of 2005 - D

=====

Dated this the 5th day of October, 2015

J U D G M E N T

The petitioner was aggrieved with his reversion ordered as per Ext.P8, from the post of Draftsman to Tradesman, which post was an entry cadre. The petitioner initially appointed as a Tradesman was promoted in 1999 as Trade Instructor Gr.II and as a Draftsman in the year 2003; specifically on 02.08.2003. It is the case of all parties that there was a dispute, as to whether seniority has to be department wise or trade wise, which was agitated before the legal forums including this Court.

2. Pursuant to that dispute, on direction issued by a learned Single Judge of this Court, the petitioner was reverted as per Ext.P8. By an interim order dated 27.01.2006, in though the reversion order was not interfered with, the recovery of the excess salary drawn in the post of Draftsman was stayed. The

petitioner's dispute was with the 4th respondent, who was also a Tradesman. The 4th respondent is said to have been promoted when the petitioner was reverted. The 4th respondent is no more and none of the legal heirs are impleaded, hence obviously no inference could be caused thereat.

3. The learned Senior Counsel would also fairly contend that no dispute as to the promotion now survives, since the matter has been resolved by the Hon'ble Supreme Court. However the question that survives is the pay entitled to the petitioner in the post in which he continued till reversion.

4. Admittedly the petitioner cannot at all be held to be responsible for the promotion effected or the circumstances, which led to the subsequent reversion. The petitioner worked in the post of Draftsman from 02.08.2003 to 19.03.2005. In such circumstance, there is no reason why the recovery should be effected from the petitioner's salary drawn in the said post, if he has drawn such amounts, since he had been appointed to the

W.P.(C) No.13474 of 2005 - D

post by the 5th respondent and had continued validly in such post. If such amounts were not paid to the petitioner, then the same would be computed at the applicable scale, when he continued in the promoted post, and be disbursed to him expeditiously.

The writ petition would stand partly allowed with the aforesaid directions but not in any manner interfering with the reversion ordered as per Ext.P8. No costs.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB/06 /10/2015

// true copy //

P.A to Judge.