

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 6981 of 2012 (W)

PETITIONER(S):

A.G.RAMACHANDRA PANICKER,
S/O.GOPALA PANICKER, AGED 59 YEARS, WORKING AS PEON
SREE CHITHRA CULTURAL HINDU RELIGIOUS LIBRARY (S.C.C.H.R.LIBRARY)
TRAVANCORE DEVASWOM BOARD, PUTHENCHANTHA
THIRUVANANTHAPURAM.

BY ADV. SRI.N.UNNIKRISHNAN

RESPONDENT(S):

1. TRAVANCORE DEVASWOM BOARD
NANTHANCOD, THIRUVANANTHAPURAM - 695003
REPRESENTED BY THE SECRETARY.
2. THE SECRETARY,
TRAVANCORE DEVASWOM BOARD, NANTHANCOD
THIRUVANANTHAPURAM-695003.
3. THE DEVASWOM COMMISSIONER,
TRAVANCORE DEVASWOM BOARD, NANTHANCOD
THIRUVANANTHAPURAM-695003.
4. THE DIRECTOR, CULTURAL DEPARTMENT,
TRAVANCORE DEVASWOM, THIRUVANANTHAPURAM-695003.

BY ADV. SRI.A.N.RAJAN BABU, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

APPENDIX

PETITIONER(S) EXHIBITS

- EXT.P1 A TRUE COPY OF THE SHOW CAUSE NOTICE NO.ROC 1370/10/EST. DATED 23/4/2010.
- EXT.P2 A TRUE COPY OF THE REPLY DATED 25/4/2010.
- EXT.P3 A TRUE COPY OF COMBINED SENIORITY LIST OF TEMPLE EMPLOYEES (IRRESPECTIVE POST) ON THE BASIS OF FULL TIME SERVICE FOR PROMOTION TO THE POST OF PEON/LASCAR AS ON 1/10/2006.
- EXT.P4 TRUE COPY OF THE LIST OF EMPLOYEES RECEIVED LOW PAID PROMOTION.
- EXT.P5 A TRUE COPY OF LETTER NO.8 DATED 3/1/2009.
- EXT.P6 A TRUE COPY OF R.O.C. NO.7984/03/EST. A. DATED 27/10/2004.
- EXT.P7 A TRUE COPY OF JUDGEMENT DATED 11/5/2010.
- EXT.P8 A TRUE COPY OF R.O.C. NO. 7984/03/ESTT. DATED 27/10/2004.
- EXT.P9 A TRUE COPY OF ROC NO.1370/10/ESTT. DATED 13/8/2010.
- EXT.P10 A TRUE COPY OF LETTER NO.ROC 5845/10 DATED 10/2/2011.
- EXT.P11 A TRUE COPY OF ISSUED SHOW CAUSE NOTICE NO. R.O.C. 5845/2010/ESTT.2 DATED 11/5/2011.
- EXT.P12 A TRUE COPY OF EXPLANATION DATED 22/5/2011.
- EXT.P13 A TRUE COPY OF ORDER NO. R.O.C. NO. 6978/84/ESTT. DATED 24/4/1991.
- EXT.P14 A TRUE COPY OF TRAVANCORE DEVASWOM BOADR PROCEEDING ROC 5845/10/ESTT II DATED 13/1/2012.
- EXT.P15 A TRUE COPY OF MEDICAL CERTIFICATE DATED 5/3/2012.
- EXT.P16 A TRUE COPY OF LETTER NO.80/09/CA DATED 25/2/2012.

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

A.M.SHAFFIQUE, J

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W.P.C.No.6981 of 2012

Dated this the 25th day of February 2015

J U D G M E N T

Petitioner challenges Exts.P14 and P16 by which the respondent Board had taken a decision to cancel the probation of the petitioner in the post of Peon and reverting him to the position of temple employee.

2. The short facts involved in this writ petition would disclose that the petitioner entered into the service of the North Paravur Sree Krishna Swami Temple as Sruthi on 06/10/1971. He was transferred to Kodungoor Major Devi Temple as Takil in 1974. It is contended that on 06/10/1999 he has suffered some damage to spinal cord and he had requested for job in another category in the post of Peon and accordingly he was appointed as Peon by change of category as per order dated 12/12/2008.

3. Later, petitioner was served with show cause notice calling upon him to answer why the change of

category should not be cancelled on account of the fact that as on the date when change of category was effected the petitioner had already completed 55 years of age. This ultimately resulted in Ext.P9 order. Petitioner's probation was declared as per Ext.P10 dated 10/02/2011. Again show cause notice was issued on 11/05/2011 by the Secretary to answer as to why the probation should not be cancelled. Petitioner gave a reply as Ext.P12 which ultimately resulted in Ext.P14 order. In Ext.P14 order, the Board took a view that the petitioner had joined service on 06/10/1971. He was entitled to remain as temple employee till the age of 60 years. Since he had joined service after 07/04/1970, he will not be entitled for change of category to establishment employee and therefore the probation was cancelled.

4. A statement is filed by the respondent inter alia stating that as per the Board order dated 01/09/1989, temple employees who entered service of the Board before 01/01/1972 can continue in service as temple employees

upto 60 years whereas as per Ext.P13 order dated 24/04/1991 only those persons who had been appointed prior to 07/04/1970 and changed to the category of establishment employee can continue in service upto the age of 60 years. It is contended that since the petitioner has entered service after 07/04/1970, he is not entitled for the benefit of the Board order dated 24/04/1991 and therefore there is justification on the part of the Board in issuing Ext.P14 and the consequential order Ext.P16.

5. It is argued by the learned counsel for the petitioner based on Ext.P6 that as per the Board order dated 24/04/1991, there is a provision for change of category of temple employees to establishment employees on certain conditions. But, these conditions do not indicate that the temple employee should not be of an age more than 55 years nor does it anywhere indicate that in case such change of category is granted, the retirement age of establishment employee shall not be 60 years.

6. Having heard the learned counsel for the petitioner as well as the learned counsel appearing for the respondents, I am of the view that Ext.P6 board order holds the field. As far as Board order on 01/09/1989 and 24/04/1991 are concerned, they operate on different fields viz. temple employees who entered service prior to 01/01/1972 and employees who entered service prior to 07/04/1970. Ext.P6 is the Board order by which those persons who do not fall in those two categories can be shifted to the post of establishment employees on certain conditions mentioned therein. Since the petitioner had complied with the said conditions and on account of the fact that the petitioner was suffering from spinal cord injury, he was shifted to the post of Peon in the establishment category. Under such circumstances, there is no reason for cancelling the probation of the petitioner, as Peon and in the circumstances I am of the view that the writ petition has to be allowed.

In the result,

- i) This writ petition is allowed.
- ii) Exts.P14 and P16 are set aside.
- iii) There will be a direction to the respondent authorities to regularise the service of the petitioner in the post of Peon and provide him all necessary consequential benefits.

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

