

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

OP.No. 31201 of 2000 (M)

PETITIONER:

K.O.GEORGE
POTTAMPLACKAL HOUSE, MANIKKADAVU.P.O., 670 705
ULIKKAL, NUCHIYAD VILLAGE, TALIPARAMBA TALUK
KANNUR DISTRICT, KERALA -670 705.

BY ADVS.SRI.M.N.MATHEW
SRI.T.K.RADHAKRISHNAN

RESPONDENTS:

1. THE UNION OF INDIA
THROUGH THE SECRETARY, MINISTRY OF COMMERCE
UDYOG BHAVAN, NEW DELHI.
2. MMTC LTD
SCOPE COMPLEX, 7, INSTITUTIONAL AREA
LODI ROAD, NEW DELHI 110003
REPRESENTED BY ITS CHAIRMAN-CUM-MANAGING DIRECTOR.
3. THE CHIEF GENERAL MANAGER
MMTC LTD, REGIONAL OFFICE, P.O.BOX NO.1671
7 ESPLANADE, CHENNAI HOUSE, CHENNAI 600 108.
4. THE SENIOR MANAGER
MMTC LIMITED, SUB-REGIONAL OFFICE, POST BOX NO.3597
JOS TRUST BUILDING, CHITTOOR ROAD, ERNAKULAM
KOCHI -682 035.
5. MMTC OFFICERS' ASSOCIATION
MADRAS REGION, REGD.NO.1108/MDS
REPRESENTED BY ITS EXECUTIVE COMMITTEE MEMBER
K.K.VASUDEVAN, MMTC LTD, SUB-REGIONAL OFFICE
POST BOX NO.3597, JOS TRUST BUILDING, CHITTOOR ROAD
ERNAKULAM
KOCHI -682 035. (THE NAME OF THE OFFICER REPRESENTING
THE 5TH RESPONDENT
ASSOCIATION IS DELETED AS PER ORDER DATED 01/02/2013 IN IA
NO.193/2013)

R1 BY ADV. SRI.K.V.SABU [CGC]
R2 & 3 BY ADV. SRI.D.PEETHAMBARAN
R2 BY ADV. SRI.R.ANIL

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 01-09-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1	:	TRUE COPY OF THE 2ND RESPONDENTS CIRCULAR DATED 24.12.1985 ISSUED TO ALL OFFICIALS
EXT.P2	:	TRUE COPY OF 2ND RESPONDENTS MMTC (OFFICERS) PROMOTION & TRANSFER POLICY 1985
EXT.P3	:	TRUE COPY OF 2ND RESPONDENTS THE MMTC (STAFF) PROMOTION POLICY 1984 (AS REVISED FROM 01.04.1987)
EXT.P4	:	TRUE COPY OF 5TH RESPONDENTS CIRCULAR LETTER DATED 24.09.1986 WITH THE PROPOSED MMTC VOLUNTARY RETIREMENT SCHEME
EXT.P5	:	TRUE COPY OF 2ND RESPONDENTS CIRCULAR NO 7/5/84-IR DATED 08.03.1989 WITH THE MMTC VOLUNTARY RETIREMENT SCHME 1989
EXT.P6	:	TRUE COPY OF 2ND RESPONDENTS OFFICE ORDER NO. 6/89/IR DATD 29.03.1989 CC THE LOCAL CADRE
EXT.P7	:	TRUE COPY OF THE 5TH RESPONDENTS LETTER DATED 27.02.1992 ADDRESSED TO THE CHAIRMAN OF THE 2ND RESPONDENT
EXT.P8	:	TRUE COPY OF 2ND RESPONDENTS CIRCULAR NO.7/5/89/IR DATED 5.6.1992 REGARDING VOLUNTARY RETIREMENT SCHEME.
EXT.P9	:	TRUE COPY OF THE 4TH RESPONDENT S OFFICE ORDER NO.3/92 DATED 30.07.1992 RELIEVING THE PETITIONER FROM HIS DUTIES WITH EFFECT FROM 31.07.1992 AN.
EXT.P10	:	TRUE COPY OF THE JUDGMENT DATED 15.10.1993 OF THE HON'BLE HIGH COURT OF DELHI
EXT.P11	:	TRUE COPY OF THE 2ND RESPONDENTS REPLY LETTER/ORDER DATED 12.03.996 IN CMV 2484/1996 IN OP NO. 1425/1996 REGARDING LOCAL CADRE.
EXT.P12	:	TRUE COPY OF THE 2ND RESPONDENTS OFFICE ORDER NO.IRP/03/87 DATED 19.20.21997 REINTRODUCING VOLUNTARY RETIREMENT SCHEME WITH ENHANCED COMPENSATION
EXT.P13	:	TRUE COPY OF THE PETITIONERS REPRESENTATION DAT 28.06.2000 SEND TO 2ND RESPONDENT SEEKING ENTITLED RETIREMENT DUES/REINSTATEMENT
EXT.P14	:	TRUE COPY OF THE SAVINGGRAM DATED 16.6.92 ISSUED BY THE 5TH RESPONDENT TO THE 2ND RESPONDENT
EXT.P15	:	TRUE COPY OF THE TELEX MESSAGE DATED 8.7.92 FROM THE PRESIDENT OF THE FEDERATION OF OFFICERS ASSOCIATION TO THE SECRETARY OF THE 5TH RESPONDENT
EXT.P16	:	TRUE COPY OF THE TELEX MESSAGE DTD 24.7.92 ISSUED BY THE SECRETARY GENERAL OF THE FEDERATION OF THE OFFICERS ASSOCIATION TO THE 5TH RESPONDENT
EXT.P17	:	TRUE COPY OF THE DEPOSITION OF DW1 IN OS NO,1/2000 FOR THE SUB COURT ERNAKULAM DTD 8.3.2003
EXT.P18	:	TRUE COPY OF THE DEPOSITION OF PW2 IN OS NO,1/2000 FOR THE SUB COURT ERNAKULAM DTD 28.2.2003

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

jma

K. VINOD CHANDRAN, J

O.P No.31201 of 2000

Dated this the 01st day of September, 2015

J U D G M E N T

The petitioner in a writ petition of 2000 seeks to challenge Ext.P9 order dated 30.07.1992 under the voluntary retirement scheme, by which he was relieved on retirement. The petitioner admittedly was relieved under the voluntary retirement scheme (VRS); for which he had made an application by himself. The petitioner had taken very many contentions in the writ petition regarding the stipulation brought in, by way of agreements entered into with the employees, as to the introduction of a local cadre and an all India cadre, the former ensuring that the employees who opted thereunder would not be transferred out of the local area. The petitioner also has a contention that when voluntary retirement scheme was introduced there was a move to do away with the cadre categorization and transfer the petitioner,

under threat of which he applied under the VRS. It is also submitted that the scheme itself was under challenge before the various High Courts and the same was struck down, leading to the introduction of a fresh scheme in the year 1998. The petitioner seeks benefits under the new scheme.

2. Though the petitioner avers that the original petitions were filed against the Voluntary Retirement Scheme, in various High Courts, the only judgment produced along with the writ petition is Ext.P10. That is a challenge based on the MMTC (Officers) Promotion and Transfer Policy 1985. The issue considered was only with respect to the transferability of the officers. It was clearly held that the transfer policy applicable in case of officers as formulated in 1985 read with the clarificatory circular dated 28.02.1985, makes it abundantly clear that the officers who opted for local cadre could not be transferred outside the State. However, with respect to the voluntary retirement

scheme it was observed that though the learned counsel for the petitioner therein had a lot to say about the scheme and the attempt of the respondents to lure the persons in the local cadre; to opt for an early retirement, the Court was not inclined to consider that question. Hence no reliance can be placed on Ext.P10, to challenge the relieving order under the voluntary retirement scheme to which the petitioner applied for on his own accord.

3. If the petitioner had a dispute with respect to a transfer being effected, in violation of the policy guidelines, then the petitioner ought to have challenged the same. The petitioner applied under the voluntary retirement scheme and got relief as per Ext.P9 in the year 1992. The petitioner turns around and challenges such retirement and claims benefit of continuance as also relief under the subsequently introduced scheme, long after the petitioner retired voluntarily. Similar claim raised by two other employees were rejected by this Court by judgment dated

O.P No.31201/2000

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14.12.2006 in O.P 1878/2000 and 18.1.2008 in O.P NO.31328/2000,
on the ground of delay.

Following the aforesaid judgments, as also on the reasoning
above, the original petition would stand dismissed. No costs.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

jma

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P.A to Judge