

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 17TH DAY OF DECEMBER 2015/26TH AGRAHAYANA, 1937

W.P.(C).No.15054 of 2006 (P)

PETITIONER(S):-

K.O.CHACKO,
MOONNAMVILAYIL HOUSE, CHENNITHALA.P.O, MAVELIKKARA,
ALAPPUZHA DISTRICT,
NOW WORKING AS DEPUTY GENERAL MANAGER,
KERALA ELECTRICAL & ALLIED ENGINEERING CO. LTD.,
KUNDARA-691 501.

BY ADVS.SRI.ISSAC NINAN.

RESPONDENT(S):

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1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM.
 2. KERALA ELECTRICALS AND ALLIED ENGINEERING CO. LTD.,
REP. BY ITS MANAGING DIRECTOR,
CORPORATE OFFICE, 7TH FLOOR, K.S.H.B.OFFICE COMPLEX,
PANAMPILLY NAGAR, KOCHI-36.
 - * 3. HAREENDRAN, MANAGING DIRECTOR,
KERAFED, HEAD OFFICE, ARISTO JUNCTION,
THIRUVANANTHAPURAM-14 [REMOVED FROM THE PARTY ARRAY].
 - ** 4. G.SUDARSAN, GENERAL MANAGER,
KERALA ELECTRICAL & ALLIED ENGINEERING CO. LTD.,
KUNDARA-691 501, KOLLAM [DELETED FROM THE PARTY ARRAY].
 5. JOHN VICTOR C. PAULS,
GENERAL MANAGER,
KERALA ELECTRICAL & ALLIED ENGINEERING CO. LTD.,
MAMALA.P.O, KOCHI-682 305.

6. M.R.SREEKUMAR, GENERAL MANAGER (PROD. & PLG.),
KERALA ELECTRICAL & ALLIED ENGINEERING CO. LTD.,
REGISTERED & CORPORATE OFFICE, 7TH FLOOR,
KSHB OFFICE COMPLEX, PANAMPALLY NAGAR, KOCHI-36.
 7. T.J.JOSEPH, GENERAL MANAGER,
KERALA ELECTRICAL & ALLIED ENGINEERING CO. LTD.,
7TH FLOOR, KSHB OFFICE COMPLEX, PANAMPALLY NAGAR,
KOCHI-36.
 8. SUSHIL BHAVAN, DIRECTOR,
KERALA ELECTRICAL & ALLIED ENGINEERING CO. LTD.,
B-7, 2ND FLOOR, STATE EMPORIA COMPLEX,
BABA KHARAG SINGH MARG, NEW DELHI-110001.
 - * 9. M.K.SUGATHAN,
DIRECTOR, KERALA ELECTRICAL & ALLIED ENGINEERING
CO. LTD., BHIMA, D-7601 LOKGRAM
KALYAN (E), THANE-421 306 [REMOVED FROM THE PARTY ARRAY].
 - *** 10. THOMAS.P.MANI,
GENERAL MANAGER,
KERALA ELECTRICAL & ALLIED ENGINEERING CO. LTD.,
BEDRADKA.P.O, VIA.KUDLU,
KASARAGOD-671 124 [REMOVED FROM THE PARTY ARRAY].
 - * RESPONDENTS 3 AND 9 ARE REMOVED FROM THE PARTY ARRAY,
AS PER ORDER DATED 7.8.2007 IN I.A.NOS.17655/2006 &
5892/2007.
 - ** THE 4TH RESPONDENT IS DELETED FROM THE PARTY ARRAY AS
PER ORDER DATED 22.3.2010 IN I.A.NO.3961/2010.
 - *** THE 10TH RESPONDENT IS REMOVED FROM THE PARTY ARRAY
AT THE RISK OF THE PETITIONER, VIDE ORDER IN I.A.NO.4678/2010
DATED 17.12.2015.
- R1 BY GOVERNMENT PLEADER SMT.SUNITHA VINOD.
R4, R6, R7, R8 & R10 BY ADV.SRI.M.K.THANKAPPAN
R2 BY ADVS.SRI.B.S.KRISHNAN [SENIOR ADVOCATE],
SRI.K.ANAND [SENIOR ADVOCATE]
STANDING COUNSEL SMT.LATHA KRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
17-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 PHOTOSTAT TRUE COPY OF ORDER RE-DESIGNATING
 SENIOR MANAGER AS DY.GENERAL MANAGER
 DT.22.8.1996.
- EXT.P2 PHOTOSTAT TRUE COPY OF REPORT ON MANAGEMENT
 CADRE APPOINTMENTS PROMOTION POLICY.
- EXT.P3 PHOTOSTAT TRUE COPY OF CERTIFICATE ISSUED BY
 2ND RESPONDENT DATED 6.9.2002.
- EXT.P4 PHOTOSTAT TRUE COPY OF REPRESENTATION TO
 CHAIRMAN DATED 1.2.2006.
- EXT.P5 PHOTOSTAT TRUE COPY OF REPRESENTATION TO
 MG. DIRECTOR OF THE 2ND RESPONDENT DT.1.2.2006.
- EXT.P6 PHOTOSTAT TRUE COPY OF OFFICE ORDER DT.15.7.2006.
- EXT.P7 PHOTOSTAT TRUE COPY OF ORDER ORDER DATED 14.6.2006
 OF KERALA ELECTRICAL & ALLIED ENGINEERING CO. LTD.

RESPONDENTS' EXHIBITS:-

- EXT.R1(a) TRUE COPY OF THE ORDER DATED 5.1.1996.
- EXT.R1(b) TRUE COPY OF THE BOARD RESLUTION DT.6.11.99.
- EXT.R1(c) TRUE COPY OF THE BOARD RESOLUTION DT.12.4.2005.
- EXT.R1(d) TRUE COPY OF THE ORDER DT.6.9.2003.
- EXT.R1(e) TRUE COPY OF THE BOARD RESOLUTION DT.15.2.2005.
- EXT.R1(f) TRUE COPY OF THE PROCEEDINGS OF THE SAID
 COMMITTEE MEETING DT.21.3.2005.
- EXT.R1(g) TRUE COPY OF THE GOVT. CIRCULAR DT.1.12.1990.
- EXT.R1(h) TRUE COPY OF THE VACANCY POSITION LIST.

- EXT.R1(i) TRUE COPY OF THE RESOLUTION DT.25.10.2004.
- EXT.R1(j) TRUE COPY OF THE ORDER DT.
- EXT.R1(k) TRUE COPY OF THE PROMOTION ORDER DT.1.4.2005.
- EXT.R2(a) TRUE COPY OF DECISION TAKEN BY THE 2ND RESPONDENT
IN THE 167TH BOARD MEETING.
- EXT.R2(b) TRUE COPY OF RESOLUTION DT.12.4.05.
- EXT.R2(c) TRUE COPY OF GOVT. ORDER GO(MS) NO.101/2003/ID
DATED 6.9.03.
- EXT.R2(d) TRUE COPY OF DECISION TAKEN BY THE 2ND RESPONDENT
DATED 15.2.05.
- EXT.R2(e) TRUE COPY OF PROCEEDINGS OF THE 2ND RESPONDENT
DATED 21.3.05.
- EXT.R2(f) SERIES TRUE COPY OF LETTERS SENT BY THE
2ND RESPONDENT TO THE PETITIONER.
- EXT.R2(g) TRUE COPY OF OFFICE ORDER DT 26.11.05.
- EXT.R2(h) TRUE COPY OF CIRCULAR NO.13818/BPE/02/PLG.
DATED 4.12.2003.
- EXT.R2(i) TRUE COPY OF RESOLUTION PASSED BY
THE 2ND RESPONDENT ON 25.10.2004.
- EXT.R2(j) TRUE COPY OF OFFICE ORDER NO.GMPA/33/169/05 DT.20.4.05.
- EXT.R4(a) TRUE COPY OF THE GOVT. ORDER G.O.(MS) NO.52/2001/1
DATED 20.3.01.
- EXT.R4(b) TRUE COPY OF THE ORDER DT.6.7.02.
- EXT.R4(c) TRUE COPY OF OFFICE ORDER DT.9.5.03.
- EXT.R4(d) TRUE COPY OF OFFICE ORDER DT.15.6.04.
- EXT.R4(e) TRUE COPY OF THE ORDER DT.26.8.05.

- EXT.R4(f) TRUE COPY OF GOVT.CIRCULAR NO.13818/BPE/02 PLG.
DT.4.12.03.
- EXT.R4(g) PROCEEDINGS OF THE SUB COMMITTEE MEETING
DATED 23.03.2005 SELECTION OF EX-DIRECTOR & GMs.
- EXT.R4(h) TRUE COPY OF THE RANK LIST DT.21.3.05 CONDUCTED
BY THE INTERVIEW BOARD.
- EXT.R4(i) TRUE COPY OF OFFICE ORDER NO.GMPA/33/2467/05
DATED 26.11.05.
- EXT.R4(j) TRUE COPY OF THE OFFICE ORDER DT.26.11.05.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.15054 of 2006-P

Dated this the 17th day of December, 2015

JUDGMENT

Petitioner, working as a Deputy General Manager in the 2nd respondent-Company, challenged the denial of promotion to the post of General Manager. Even according to the petitioner, the promotion policy of the respondent-Company came into force on 06.11.1999 and the petitioner was qualified to be promoted to the said post. However, no grievance was raised before any authority or an appropriate Court, at that point of time.

2. The petitioner, admittedly, was on leave from 06.07.2002 to 25.11.2005 and had been working abroad in Germany. The respondent-Company has produced Exhibit R2(f) series of leave sanction, which clearly indicates that during the leave period the petitioner would not be eligible for any service benefits and that the period would not be counted for leave salary, increment, promotion, gratuity, etc. The petitioner, by

the above writ petition, challenges the promotion made in March, 2004 of the party respondents 3 to 10. The petitioner was not even available in the Company at that point of time. The petitioner, as stated earlier, was on leave and had re-joined the Company in November, 2005; after which the above writ petition is filed. In such circumstances, the petitioner's claim for promotion in 2004 cannot be countenanced. It is also stated by the learned counsel for the respondent-Company that the petitioner and the party-respondents have now retired from service. Nothing survives in the writ petition on that count also.

The writ petition would stand dismissed. No costs.

Sd/-

K.Vinod Chandran
Judge.

vku/-

[true copy]