

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF MARCH 2015/25TH PHALGUNA, 1936

WP(C).No. 7981 of 2011 (W)

PETITIONER:

**ABHANAND A.D, SURVEYOR GRADE - II,
THIRUVANANTHAPURAM DEVELOPMENT
AUTHORITY(TRIDA), NOW ON DEPUTATION
AS DRAFTSMAN GRADE II (HIGHER GRADE),
GREATER COCHIN DEVELOPMENT AUTHORITY,
KOCHI-20.**

**BY SRI.N.NANDAKUMARA MENON (SENIOR ADVOCATE)
ADVS. SRI.P.SHAIJAN JOSEPH
SRI.P.K.MANOJKUMAR**

RESPONDENT(S):

- 1. THE STATE OF KERALA, REPRESENTED
BY SECRETARY TO GOVERNMENT,
LOCAL SELF GOVERNMENT DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM, PIN-695 001.**
- 2. THIRUVANANTHAPURAM DEVELOPMENT
AUTHORITY(TRIDA), REP.BY ITS SECRETARY,
JAYA MANSION, VAZHUTHAKKAD,
SASTHAMANGALAM.P.O.,
THIRUVANANTHAPURAM, PIN-695 010.**

**R1 BY GOVERNMENT PLEADER SMT.A.LOWSY
R2 BY SRI.K.A.JALEEL, SC., TRIDA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28-01-2015, THE COURT ON 16-03-2015 DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1 : TRUE COPY OF ORDER NO.A1-1168/98/TRIDA DATED 1.1.2001
SHOWING THE PROMOTION OF SMT.LATHA.
- EXHIBIT P2 : TRUE COPY OF REPRESENTATION DATED 16.8.2001 SUBMITTED BY
THE PETITIONER TO THE SECRETARY TRIDA.
- EXHIBIT P3 : TRUE COPY OF REPRESENTATION DATED 15.11.2001 SUBMITTED BY
THE PETITIONER TO THE SECRETARY TRIDA.
- EXHIBIT P4 : TRUE COPY OF REPRESENTATION DATED 15.6.2005 SUBMITTED BY
THE PETITIONER TO THE SECRETARY TRIDA.
- EXHIBIT P5 : TRUE COPY OF LETTER DATED 23.1.2007 OF SECRETARY, TRIDA
TO THE GOVERNMENT.
- EXHIBIT P6 : TRUE COPY OF LETTER NO.A1/2610/2000/TRIDA, DATED 11.4.2007 OF
SECRETARY TRIDA TO THE PETITIONER.
- EXHIBIT P7 : TRUE COPY OF REPRESENTATION DATED 29.3.2010 SUBMITTED BY
THE PETITIONER TO THE GOVERNMENT.
- EXHIBIT P8 : TRUE COPY OF JUDGMENT OF THIS HON'BLE COURT IN
W.P(C)25349/2010 DATED 10.11.2010.
- EXHIBIT P9 : TRUE COPY OF ORDER DATED 30.12.2010 PASSED BY THE
1ST PETITIONER.
- EXHIBIT P10 : TRUE COPY OF LETTER NO.A1-2610/2000/TRIDA DATED 30.10.2001
ISSUED BY TRIDA TO THE PETITIONER.
- EXHIBIT P11 : TRUE COPY OF NOTICE NO.A1/898/10/TRIDA DATED 29.4.2010 ISSUED
BY THE 2ND RESPONDENT.
- EXHIBIT P12 : THE PHOTOSTAT COPY OF THE AMENDED SPECIAL RULES
PUBLISHED BY THE STATE GOVERNMENT G.O(P)NO.183/2000/LSGD
DATED 29.6.2000.
- EXHIBIT P13 : THE PHOTOSTAT COPY OF THE NOTIFICATION
NO.A1-1615//2001/TRIDA DATED 29.9.2001 ISSUED BY THE
SECRETARY, TRIDA, THIRUVANANTHAPURAM.
- EXT.P13(A) : THE PHOTOSTAT COPY OF THE SENIORITY LIST OF SURVEYOR
GRADE II AS ON 1.1.2001.
- EXHIBIT P14 : THE PHOTOSTAT COPY OF THE ORDER NO.A1/605/09/TRIDA
DATED 4.3.2010 ISSUED BY THE SECRETARY, TRIDA.

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EXHIBIT P15 : THE PHOTOSTAT COPY OF THE ORDER NO.E1.2791/06/TRIDA
DATED 6.4.2010 ISSUED BY THE CHIEF ENGINEER, TRIDA, TO THE
PETITIONER.

RESPONDENT'S EXHIBITS:

- NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.7981 of 2011

Dated this the 16th day of March, 2015

JUDGMENT

The petitioner entered as Surveyor Grade-II in the Service of the Thiruvananthapuram Development Authority (TRIDA) on 23.11.1998. This writ petition is filed seeking a direction to the respondents to give promotion to the petitioner to the post of Overseer/Draftsman Grade-I in TRIDA.

2. The petitioner submitted Ext.P7 request before the Government. This request has been rejected by Ext.P9. In Ext.P9, it is stated that the post of Surveyor in TRIDA is an isolated category and it will not come within the purview of the feeder category of Overseer/Draftsman Grade-I. It is also stated that an earlier promotion given to one Smt.C.G.Latha as Overseer/Draftsman Grade-I was by mistake.

3. It is the admitted position, there are no Special Rules for TRIDA for governing service conditions. TRIDA is an Authority as referred under the Kerala Development Authority Rules, 1984 (for short, the 'Rules'). The Rule 24 of the Rules, provides as follows:

“Qualifications and method of recruitment:-

1. The Authority shall, with the prior approval of the Government fix in the qualifications and method of recruitment to the various posts under, it ;
2. Where no qualifications have been fixed under sub-rule (1) the qualifications fixed for posts of similar standing' and status under the Government shall be followed.
3. No person shall be appointed to a post under the Authority if he does not possess, the qualifications fixed for that post under sub-rule (1) or sub-rule (2) above.”

4. The case of the petitioner is that in the absence of the Special Rules in TRIDA, TRIDA generally applies

provisions of the Kerala Town and Country Planning Subordinate Service Rules (for short, the 'Service Rules') for regulating working conditions and also for fixing revised pay scale of its employees. There is no denial of application of this Rule in TRIDA in the statement filed before this Court. It is admitted in the statement that steps are being taken by the Government to bring the staff of the Development Authorities under one umbrella. i.e. to bring the Engineering Staff under the Local Self Government Engineering Wing.

5. In the absence of any Special Rules framed by TRIDA in terms of the Rule 24(2) of the Rules, it is imperative for TRIDA to follow service conditions governing the post of similar standing status under the Government. In public employment, every employee has a vested right for consideration of promotion in accordance with the Rules. If there are no avenues for promotion in terms of the Special

Rules, no doubt, no employee can claim for promotion in par with promotion given in other Subordinate Services. However, fact remains in all other categories, there are promotional avenues in TRIDA. No reason has been assigned for non-consideration of Surveyor Grade-II for the promotion post of Overseer/Draftsman Grade-I in terms of the 'Service Rules'. The categorical statement in the writ petition about adoption of the above Service Rules remain unrebutted. In terms of the 'Service Rules', the method of appointment of Draftsman Grade-I is referred. The method of appointments are by direct recruitment or promotion of the Draftsman Grade-II in the ratio 1:1.

6. In that view of the matter, I am of the view, the petitioner is entitled for promotion to the post of Overseer/Draftsman Grade-1. Therefore, it is declared that the petitioner is entitled for promotion on the date of the

vacancy arose to the post of Draftsman Grade-I in TRIDA. Therefore, Ext.P9 is quashed. The petitioner shall be promoted to the post of Surveyor Grade-I with effect from the date on which Smt.C.G.Latha left service. Needful shall be done within one month. Monetary benefits shall also be reckoned from the above date and arrears shall be paid to her within three months.

The writ petition is disposed of as above. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

In

The words "Surveyor Grade-I" occurring in the operative portion of the judgment are corrected and substituted as "Overseer/Draftsman Grade-I," vide order dated 24.03.2015 in I.A.No.4362/2015 in W.P.(C) No.7981/2011.

Sd/-

Registrar (Judicial)