

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 5142 of 2015 (P)

PETITIONER(S):

- 1. TITUS JOSEPH,
BADGE NO.13489, CHEMIST (QA), PETRO CHEMICAL DIVISION,
FERTILIZERS AND CHEMICALS TRAVANCORE LIMITED,
UDYOGAMANDAL P.O.**
- 2. JAYADEV P,
BADGE NO.13745, CHEMIST (QA), PETRO CHEMICAL DIVISION,
FERTILIZERS AND CHEMICALS TRAVANCORE LIMITED,
UDYOGAMANDAL P.O.**

**BY ADVS.SRI.A.JAYASANKAR
SRI.C.V.MANUVILSAN
SRI.MANU GOVIND**

RESPONDENT :

**FERTILISERS AND CHEMICALS TRAVANCORE LIMITED.,
UDYOGAMANDAL COMPLEX, UDYOGAMANDAL P.O.,
REPRESENTED BY ITS GENERAL MANGER, PIN- 683 501**

**BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURRYAN THOMAS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 18-03-2015, THE COURT ON 31-03-2015 DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- P1: A TRUE PHOTOCOPY OF THE ORDER DATED 03.02.2015**
- P2: A TRUE COPOY OF THE REPRESENTATION DATED 11.02.2015 SUBMITTED BY THE 1ST PETITIONER**
- P3: A TRUE COPY OF THE REPRESENTATION DATED 11.02.2015 SUBMITTED BY THE 2ND PETITIONER**
- P4: A PHOTCOPY OF THE REPRESENTATION DATED 16.02.2015 SUBMITTED BY THE 1ST PETITIONER**
- P5: A PHTOCOPY OF THE REPRESENTATION DATED 16.02.2015 SUBMITTED BY THE 2ND PETITIONER**
- P6: A TRUE PHOTOCOPY OF THE DUTIES AND RESPONSIBILITIES OF PROCESS TECHNICIAN (OPERATOR) FORMULATE BY THE RESPONDENT.**
- P7: A TRUE COPY OF THE DEPARTMENTAL PROCEDURE DATED 26/03/2012 FOR THE QUALITY ASSURANCE DEPARTMENT WHICH WAS FORMULATED BY THE RESPONDENT AND DULY APPROVED BY THE INTERNATIONAL STANDARDISATION ORGANISATION (ISO)**
- P8: A TRUE COPY OF THE VACANCY NOTIFICATION DATED 24/10/2011 ISSUED BY THE RESPONDENT**

RESPONDENT(S)' EXHIBITS

- R1(A): COPY OF THE CERTIFICATE OF APPRENTICESHIP DATED 28/5/1991 ISSUED BY THE TRAINING SCHOOL TO THE 1ST PETITIONER.**
- R1(B): COPY OF THE CERTIFICATE OF APPRENTICESHIP DATED 8/4/1993 ISSUED BY THE TRAINING SCHOOL TO THE 2ND PETITIONER.**
- R1(C): COPY OF THE RELEVANT PAGE OF THE LONG TERM SETTLEMENT DATED 17/12/2001 OF FERTILISER PLANTS/UC**
- R1(D): COPY OF THE RELEVANT PAGE OF THE LONG TERM SETTLEMENT DATED 25/5/2002 OF PETROCHEMICAL PLANTS/UC.**

/TRUE COPY/

P.S.TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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**W.P.(C).No.5142 of 2015**  
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Dated this the 31st day of March, 2015

J U D G M E N T

Petitioners are working as Chemist in the Fertilizers and Chemicals Travancore Limited. They have approached this Court challenging action of the respondents directing petitioner to work as a Plant Operator.

2. According to the petitioners, the Kerala Factories Rules, 1957 prescribe qualification and experience of Supervisors including Operator in Chemical Factories. Rule 81AN(1) of the above Rules reads as follows:

“(1) All persons who are required to supervise the handling of hazardous substances shall possess the following qualifications and experience:

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- (a) (i) A degree in chemistry or Diploma in Chemical Engineering or Technology with 5 years experience; or
- (ii) A Master's Degree in Chemistry or a Degree in Chemical Engineering or Technology with 2 years experience.

The experience stipulated above shall be in process operation and maintenance in the chemical industry.

(b) The Chief Inspector may require the supervisor to undergo training in Health and Safety."

3. It is submitted by the learned counsel for the petitioners that the first petitioner is a Graduate in Chemistry and the second petitioner is a Post Graduate in Chemistry. They have not undergone training and they are not qualified to be posted as Operators in the factory. It is further submitted that posting of the petitioners is in violation of Section 9A of Industrial Disputes Act, 1947.

4. In the counter affidavit it is stated that petitioners are workmen deployed from Petrochemical Plants to Fertilizer Plants and they will be posted

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back to Petrochemical Plants once the Petrochemical Plants resume operations. It is also submitted that the petitioners are B.Sc Chemistry graduates and undergone Apprenticeship training in FACT and possess the required knowledge and experience for operation of fertilizer plants. It is also stated that the Trade Union representing the petitioners had raised an industrial dispute and the Assistant Labour Commissioner, Kochi commenced conciliation proceedings under the Industrial Disputes Act.

5. Essentially, in this writ petition, the dispute is relating to qualification and competence of the petitioners for operation of fertilizer plants. This dispute in fact is related to the employment of the petitioners. This Court, while invoking powers under Article 226 of the Constitution, is normally restrained from deciding a dispute pertaining to the employment covered under the Statutory provisions. The dispute can only be resolved after adverting to the nature of employment, service conditions etc. The power

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of judicial review would arise only when a decision is taken by the competent authority in relation to dispute. Therefore, declining jurisdiction, the writ petition is dismissed with liberty to the petitioner to redress his grievance invoking the statutory provisions under the Industrial Disputes Act. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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