

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

WP(C).No. 9407 of 2009 (U)

PETITIONER :

**K.I. ISAHAC CHIEF STEWARD,
BOLAGATTY PALACE COCHIN**

**BY ADVS.SMT.AYSHA YOUSEFF
SMT.MOLLY JACOB
SMT.RABIA BEEGAM T.K.
SRI.JOBI.A.THAMPI
SMT.T.VSREEJA
SMT.M.KABANI DINESH
SMT.BOBY M.SEKHAR
SMT.SEETHA.M.P**

RESPONDENTS :

- 1. THE MANAGING DIRECTOR, KERALA TOURISM DEVELOPMENT
CORPORATION, CHAITRAM HOTEL, TRIVANDRUM**
- 2. KERALA TOURISM DEVELOPMENT CORPORATION
REPRESENTED BY ITS MANAGING DIRECTOR
CHAITRAM HOTEL, TRIVANDRUM**

R1 & R2 BY ADV. SRI.P.A.AHAMED,SC

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE RELEVANT PAGE OF THE SENIORITY LIST SHOWING THE SENIORITY CHIEF STEWARD.
- P2: COPY OF THE JUDGMENT DT 28/2/2006 IN OP 16743/01.
- P3: COPY OF RELEVANT PORTION OF THE KTDC RECRUITMENT, STAFF PATTERN AND PROMOTION POLICY RULES 2007.
- P4: COPY OF THE ORDER NO. KTDC/PA(3)/43/07 DT 6/11/2007 ISSUED BY THE R2.
- P5: COPY OF THE REPRESENTATION DT 01/02/2008 SUBMITTED BY THE PETITIONER BEFORE THE R2.
- P6: COPY OF THE REPRESENTATION DT 2/12/2008 SUBMITTED BY THE PETITIONER BEFORE THE R2.
- P7: COPY OF THE ORDER DT 03.04.2008 ISSUED BY R2 PROMOTING T. PRATAPASIMHAN NAIR AS DEPUTY MANAGER (PERSONAL).
- P7(a): COPY OF THE ORDER DT 03.04.2008 ISSUED BY R2 PROMOTING SHRI JOSEPH BENSEY AS DEPUTY MANAGER (MARKETING)
- P8: COPY OF JUDGMENT DT 2.2.2009 IN WPC NO. 3177/09.
- P9: COPY OF THE ORDER DT 25/2/2009 OF THE R1 TO THE PETITIONER.
- P10: COPY OF THE ORDER NO. KTDC/PA(3)/2247/2008 DTD 2/3/2008 OF THE R2.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.V.RAMAKRISHNA PILLAI, J.

=====

W.P(C) No.9407 of 2009

=====

Dated this the 2nd day of November, 2015

JUDGMENT

The petitioner, who is the Senior-most Chief Steward eligible to be promoted as supervisor in the KTDC, has approached this Court alleging that the 2nd respondent as per Ext.P4 dated 6.11.2007 promoted 6 supervisors as Manager (IV). However, no consequential promotion was effected to fill up the above vacancies. The petitioner further alleges that apart from that, two more vacancies are also existing due to the dismissal of an employee working as supervisor and also on account of the death of another supervisor.

2. The petitioner further alleges that he is qualified to hold the post of Supervisor as per Rules. The promotion of 6 supervisors as per Ext.P4 order and promotion of one Superintendent (Administration) as Deputy Manager (Personnel) and another Senior Accountant as Deputy Manager (Marketing) were effected as per

Exts.P4, P7 and P7(a) orders after the approval of the present promotion policy by the Board of Directors. The petitioner pointed out that since he was due to retire from service on 31.3.2009, he submitted Exts.P5 and P6 representations before the first respondent requesting to promote him as Supervisor in any one of the two vacancies. However, no action was taken in this regard.

3. Thereafter, he approached this Court with W.P(C) No.3177 of 2009 which was disposed of by Ext.P8 judgment directing the respondents to pass appropriate orders on Ext.P5 as per Rules within a period of one month from the date of that judgment. Pursuant to Ext.P8, the first respondent passed Ext.P9 order rejecting the petitioner's request to promote him as Supervisor stating that his request can be considered only after approval of the promotion policy by the Government.

4. The petitioner further points out that in Ext.P9, the existence of 8 vacancies of Supervisors have been admitted. There is also no

quarrel regarding the petitioner's eligibility to be promoted as Supervisor. The petitioner further alleges that the promotions effected as per Exts.P4, P7 and P7(a) amply substantiate that the first respondent has got the power to effect the promotion to the post covered by promotion policy without the approval of the Government. According to the petitioner, as far as the existing post of supervisors are concerned, they are sanctioned posts for which approval of the Government is not required. Therefore, according to him, the reasons stated in Ext.P9 for not promoting the petitioner as supervisor is unsustainable.

5. The petitioner alleges that the he has already rendered 30 years of service and this is the only promotion that he can aspire for before this retirement. It is clear from Ext.P10 that Receptionists, Chief Steward etc., have been posted as unit-in-charge in the absence of persons to the units. It is with this background, the petitioner has approached this Court.

6. Today when the matter came up for hearing, the learned counsel for the respondents submitted that the petitioner has already been promoted and the delay in promoting the petitioner was only on account of the fact that there was no sufficient vacancies.

In the light of the said submission, this Court is of the view that there is no surviving cause of action. Therefore, the writ petition is dismissed.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

krj

//true copy//

PA to Judge