

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 12358 of 2007 (U)

PETITIONER(S) :

BENNY K.S.,
MANAGING PARTNER, CEMENT PARK,
SEA PORT-AIR PORT ROAD,
THRIKKAKARA, ERNAKULAM.

BY ADV. SRI.M.P.ASHOK KUMAR.

RESPONDENT(S) :

1. THE DISTRICT LABOUR OFFICER,
CIVIL STATION, KAKKANAD, COCHIN.
2. THE ASSISTANT LABOUR OFFICER,
ERNAKULAM 1ST CIRCLE, CIVIL STATION, KAKKANAD,
COCHIN.
3. THE HEAD LOAD WORKERS UNION (CITU),
POOL NO.78, THRIKKAKARA SUB COMMITTEE,
REP.BY ITS CONVENER, K.A.KUMARAN.
4. N.P.SHANMUGHAM,
SECRETARY, HEAD LOAD WORKERS UNION (CITU),
POOL NO.78,
THRIKKAKARA SUB COMMITTEE.

BY ADV. SRI.P.R.RADHAKRISHNAN &
BY GOVERNMENT PLEADER SRI. MANOJ KUNJACHAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ivs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1: COPY OF THE ORDER NO.38 OF 2005 DATED 31/12/2005 OF THE
2ND RESPONDENT.
- EXT. P2: COPY OF THE ORDER NO.C.2173/05 DATED 01/04/2006.
- EXT. P3: COPY OF THE JUDGMENT WP(C) NO.13714/06 DATED 26/06/2006.
- EXT. P4: COPY OF THE APPEAL DATED 26/05/06 FILED BY THE 3RD
RESPONDENT BEFORE THE RJLC.
- EXT. P5: COPY OF THE APPEAL DATED 30/05/06 FILED BEFORE THE DLO
BY THE 3RD RESPONDENT UNION.
- EXT. P6: COPY OF THE OBJECTION FILED BY THE PETITIONER IN HLA
2/06.
- EXT. P7: COPY OF THE OBJECTION FILED BY THE PETITIONER IN HLA
21/06.
- EXT. P8: COPY OF THE ORDER NO.A1-1831/2006 DATED 18/10/2006.
- EXT. P9: COPY OF THE ORDER NO.HLA 21/06 DATED 19/03/2007 PASSED
BY THE 1ST RESPONDENT.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K. VINOD CHANDRAN, J

W.P(C) No. 12358 of 2007

Dated this the 11th day of March, 2012

J U D G M E N T

The short contention raised in the above case is the cancellation of the identity cards issued to seven individuals, who are said to be regular employees under the petitioner. The petitioner admittedly, is carrying on a Cement Dealership, wherein already two employees were registered. Seven further employees had applied for registration under Rule 26A. Notice was issued to the petitioner and the petitioner conceded that seven employees are headload workers employed in the establishment, it was hence the registration was granted.

2. However, later, an appeal was filed by the Pool members alleging that though two workers were registered earlier even they were not working in the said establishment. That is not a ground for cancellation of registration of seven workers; which employment has

been conceded by the employer petitioner. It is the employer's prerogative to decide as to how many headload workers are need in his/her establishment. The appellate authority has completely misdirected itself insofar as finding that the enquiry revealed that there is no requirement of seven employees in the dealership.

(Raghavan v. Superintendent of Police [1998(2) KLT 732]) recognised the right of an establishment to have regular head load workers in employment, but however, with registration under Rule 26 A of the Kerala Headload Workers Rules, 1981 Ext.P9 has to be set aside. The registration would stand upheld.

Writ petition allowed. No costs.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge