IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 7TH DAY OF DECEMBER 2015/16TH AGRAHAYANA, 1937

W.P.(C).No.21413 of 2003 (Y)

PETITIONER(S):-

K.J. THOMAS,
KADUTHANATHU HOUSE, ANICKAMPOYIL P.O.,
THIRUVAMPADI, KOZHIKODE.

BY ADVS.SRI.R.KRISHNA RAJ
SRI.A.SHANAVAS KHAN
SRI.P.R.HARIKUMAR
SMT.G.PRATHISHYA

RESPONDENT(S):-

1. KERALA STATE HOUSING BOARD,
REPRESENTED BY ITS CHAIRMAN,
THIRUVANANTHAPURAM.

2. THE SECRETARY,
KERALA STATE HOUSING BOARD, THIRUVANANTHAPURAM.

3. REGIONAL ENGINEER,
KERALA STATE HOUSING BOARD,
KOZHIKODE.

R1 TO R3 BY STANDING COUNSEL SRI.GEORGE BOBAN
R1-R3 ADV. SRI.A.JAYASANKAR, SC KSHB, TVM
R BY SRI.T.R.HARIKUMAR, SC, KSHB.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1	COPY OF THE JUDGMENT IN O.P.NO.7643/98 DATED 3.8.1998.
EXT.P2	COPY OF THE LETTER SENT BY THE PETITIONER TO THE RESPONDENT.
EXT.P3	COPY OF THE LETTER ISSUED BY THE RESPONDENT DATED 7.10.2002.
EXT.P4	COPY OF THE ORDER ISSUED BY THE RESPONDENT DATED 18.3.2003.
EXT.P5	LETTER OF THE REGIONAL ENGINEER REQUIRED TO PAY THE AMOUNT DT.27.05.2003.
EXT.P6	LETTER SHOWING THE CANCELLATION OF THE ALLOTMENT DT.23.06.2003.

RESPONDENT'S EXHIBITS:-

EXT.R1(a)	TRUE COPY OF ORDER IN G.O.(P) NO.6/95/P&ARD DATED 30.03.1995 FOR THE PURPOSES OF REGULARISING THE SERVICE OF THE PHYSICALLY HANDICAPPED PROVISIONAL EMPLOYEES WHO WERE IN THE SERVICE IN THE STATE GOVERNMENT IN THE SAARC YEAR OF THE HANDICAPPED.
EXT.R1(b)	TRUE COPY OF GOVERNMENT ORDER AS G.O.(MS) NO.13/2001/HSG. DT.20.03.2001.
EXT.R1(c)	TRUE COPY OF ORDER NO.HBO416/AD1(B) 8752/94/V DATED 19.5.2001.
EXT.R1(d)	TRUE COPY OF ORDER NO.EB/12101/89 DT.26.7.1991.
EXT.R1(e)	TRUE COPY OF ORDER NO.HBO-388/AD1(B) 8752/94/VOL.V. DATED 27.10.2003.

vku/- [true copy]

K. Vinod Chandran, J

W.P.(C).No.21413 of 2003-Y

Dated this the 07th day of December, 2015.

JUDGMENT

The petitioner essentially seeks allotment of a plot (landed property), under the staff quota, which facility was available to the employees under the respondent-Board.

2. The brief facts to be noticed are that, the petitioner was appointed in a temporary vacancy from 31.07.1993 for 179 days and then again on 19.11.1997 for a further period of 179 days. While so, the Government brought out Exhibit R1(a) order, permitting regularisation of handicapped persons in the Government service, which policy was formulated in the "SAARC" year for handicapped. In Exhibit R1(a) there was also a stipulation that if other Public Sector Undertakings, Local Bodies or Autonomous Bodies decide on their own to make such regularisation, the same shall also be sanctioned by the Government.

3. The petitioner, on the basis of the order, approached this Court and sought continuance even after 179 days. This Court is said to have granted interim stay of termination of service, vide order dated 21.04.1998 in O.P.No.7643 of 1998. Subsequently, this Court

also disposed of the case by Exhibit P1, wherein the 1st respondent was directed to take up the matter of re-appointment of the petitioner; but, however, directed continuance of the petitioner in the organisation.

4. The 1st respondent took up the matter and on 20.03.2001, the Government sanctioned such appointments as per Exhibit R1(b). The respondent-Board issued proceedings as per Exhibit R1(c), appending a list of persons so eligible to be regularised, which contains the name of the petitioner also. The same was on 19.05.2001. Pursuant to that, the petitioner is said to have been regularised from 30.05.2001, as is evidenced by Exhibit R1(e). On the date of the application for allotment of the plot under staff quota, the petitioner had not completed five year regular service.

5. The contention of the petitioner's counsel that the petitioner had been continuously employed by virtue of Exhibit P1 cannot enure to the benefit of the petitioner, since such continuance was not on the basis of regular appointment. The continuance of the petitioner was on the basis of the orders passed by this Court. The regularisation was taken up by the respondent-Board and eventually granted with effect from 30.05.2001. The orders were issued to the

petitioner also and the petitioner did not take up the issue of any retrospective regularisation. In such circumstance, the petitioner cannot claim regular service from 19.11.1997.

6. One other issue which assumes significance is that when the above writ petition was admitted, the petitioner was granted an interim order, directing deposit of one-third of the price of the plot within one month. The petitioner, admittedly, did not comply with the said order. In such circumstance, there is no question of any allotment; at this distance of time, even if the petitioner is found to be entitled under the staff quota. Be that as it may, the petitioner is not entitled under the staff quota and Exhibit P6 has to be upheld. The learned Standing Counsel appearing for the Board also submits that the petitioner having failed to comply with the interim order, allotments were made to other staff members of the Board and the petitioner cannot rake up such settled issues.

For all the above reasons, the writ petition is found to be devoid of merit and the same is dismissed. No costs.

Sd/-
K.Vinod Chandran
Judge.

vku/-

[true copy]