

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYAISHTA, 1937

WP(C).No. 9380 of 2012 (V)

PETITIONER:

**MOHAMMED RASSY.A, AGED 37 YEARS
ROSE COTTAGE, KANIYAPURAM P.O
THIRUVANANTHAPURAM 695 301.**

**BY ADVS.SRI.SIBY MATHEW
SRI.PHILIP J.VETTICKATTU
SRI.B.PREMNATH (E)**

RESPONDENT(S):

**1. M/S. KERALA AUTOMOBILES LTD.
NEYYATTINKARA, THIRUVANANTHAPURAM 695 123
REPRESENTED BY ITS MANAGING DIRECTOR.**

**2. STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY
DEPARTMENT OF INDUSTRIES, SECRETARIAT
THIRUVANANTHAPURAM 695 001.**

**R1 BY ADV. SRI.P.A.AHAMED,SC,KERALA AUTOMOBILES LIMITED
R1 BY ADV. SRI.K.ANAND
R1 BY ADV. SMT.LATHA KRISHNAN
R1 BY SMT.K.K.RAZIYA, SC, KERALA AUTOMOBILES LIMITED
BY GOVERNMENT PLEADER SRI.REFEEQUE**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26-05-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S) EXHIBITS

- EXT.P1: TRUE COPY OF NOTIFICATION DATED 2/2/2005 PUBLISHED IN MALAYALA MANORAMA DAILY.
- EXT.P2 TRUE COPY OF APPLICATION, DATED 5/2/2005 SUBMITTED BY THE PETITIONER.
- EXT.P3 TRUE COPY OF LETTER INVITING THE PETITIONER FOR EXAMINATION ON 18/12/2005.
- EXT.P4 TRUE COPY OF ADMIT CARD DATED 22/12/2005 CALLED THE PETITIONER FOR AN INTERVIEW ON 30/12/2005.
- EXT.P5 TRUE COPY OF APPOINTMENT ORDER DATED 2/1/2006 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
- EXT.P6 TRUE COPY OF A COMMUNICATION RECEIVED BY THE PETITIONER FROM THE RESPONDENT.
- EXT.P7 TRUE COPY OF LETTER DATED 9/1/2006 FURNISHED BY THE 1ST RESPONDENT TO THE GOVERNMENT.
- EXT.P8 TRUE COPY OF LETTER DATED 16/2/2006 ISSUED BY THE 2ND RESPONDENT VACATING THE STAY OF APPOINTMENT.
- EXT.P9 TRUE COPY OF JUDGEMENT DATED 28/10/2005 OF THIS HON'BLE COURT IN WA.2226/2005.
- EXT.P10 TRUE COPY OF THE JUDGEMENT DATED 17/11/2005 OF THIS HON'BLE COURT IN WPC.8355/2005.
- EXT.P11 TRUE COPY OF JUDGEMENT IN 17/10/2006 OF LOK AYUKTHA IN COMPLAINT NO.197/2006.
- EXT.P12 TRUE COPY OF PETITION DATED 17/12/2011 FILED BY THE PETITIONER BEFORE THE MINISTER FOR INDUSTRIES.
- EXT.P13 TRUE COPY OF REPRESENTATION DATED 17/3/2012 SUBMITTED BY THE PETITIONER BEFORE THE MINISTER FOR INDUSTRIES.
- EXT.P14 TRUE COPY OF LETTER DATED 30/11/2011 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
- EXT.P15 TRUE COPY OF REPRESENTATION DATED 31/12/2011 SUBMITTED BY THE PETITIONER BEFORE THE MINISTER FOR INDUSTRIES.
- EXT.P16 TRUE COPY OF LETTER, DATED 31.1.2012 ISSUED BY THE 1ST RESPONDENT TO THE GOVERNMENT.
- EXT.P17 TRUE COPY OF RELEVANT PORTION OF THE MINUTES OF THE 173RD BOARD MEETING HELD ON 23.12.2011.

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- EXT.P18** **TRUE COPY OF LETTER DATED 14.2.2012 ISSUED BY THE GOVERNMENT TO THE 1ST RESPONDENT.**
- EXT.P19** **TRUE COPY OF LETTER, DATED 2.3.2012 ISSUED BY THE 1ST RESPONDENT TO THE GOVERNMENT.**
- EXT.P20:** **COPY OF GO(MS)NO.34/2012/WRD DATED 4.5.2012 ISSUED BY THE GOVERNMENT.**

RESPONDENTS EXHIBITS: NIL

/TRUE COPY/

P.A. TO JUDGE

SKV

P.V.ASHA, J.

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Dated this the 26th day of May, 2015

JUDGMENT

The petitioner was offered appointment as Engineer (Mechanical) under the 1st respondent, on the basis of his inclusion in a rank list, after being successful in the written test and interview, conducted pursuant to Ext.P1 notification dated 2.2.2005. Even though 1st respondent issued an Ext. P5 order appointing him in the post as early as on 2.1.2006, he could not join duty. Immediately after issuance of appointment order, the 1st respondent issued Ext.P6 telegram informing that the order of appointment was kept in abeyance and directing him to await further instructions.

2. It is stated that there were certain complaints against the appointments made under the 1st respondent. The employees organisations filed W.P.(C)8355/2005 challenging the proceedings for appointments to various

posts under the 1st respondent. They filed Writ Appeal when the interim order initially granted was vacated. By Ext P9 judgment dated 28.10.2005 this court dismissed the Writ Appeal No. 2226/2005 filed by them, observing that it is up to the Company to decide whether any service hands or person from out side are to be employed and it does not require any interference under Article 226 of the Constitution of India. Accordingly the Writ Petition was dismissed on 17.11.2005 as per Ext.P10 judgment.

3. Petitioner says he was awaiting further intimation from the 1st respondent, as assured, approaching the respondents and finally on Exts.P12 and P13 representations, the Government issued Ext.P14 letter informing the petitioner that the 1st respondent was to take a decision. Petitioner says that the 1st respondent had informed Government their no objection for appointing petitioner.

4. Seeing further delay in the matter, he approached this court filing this writ petition. This court passed an

interim order dated 22.5.2012 directing the 1st respondent to provisionally permit the petitioner to join duty . On the basis of this order he was allowed to join duty and he is continuing in that post.

5. The 1st respondent has filed counter affidavit saying that he was not allowed to join duty because of the writ petitions pending before this court; subsequent to the disposal of those writ petitions, there was a case before the Lok Ayuktha. However, they stated that in the 173rd Directors meeting, the Board decided to consider the case of the petitioner and the decision was taken on 13.10.2011 and 30.11.2011 in the matter of appointment of the petitioner, seeking the decision of Government. But the further statement is that they are proposing to limit the period of rank list for a period of 3 years and therefore appointment cannot be made on the basis of a selection conducted in the year 2005.

6. I do not find any justification on the part of 1st respondent in declining appointment to petitioner/in not

allowing the petitioner to join duty based on his appointment already made as early as in 2005. Petitioner was a candidate already selected and appointed against a vacancy which existed in the year 2005, after issuing orders of appointment. Now, the respondents cannot go back on the ground of proposed restriction on validity of rank list.

7. Therefore the interim direction is made absolute. The petitioner shall be given consequential benefits on the basis of the appointment already made, in case he is otherwise eligible. In case there is any further grievance for the petitioner, petitioner is free to take up the same before the appropriate authorities.

Accordingly this writ petition is disposed.

Sd/-
P.V.ASHA, JUDGE

SKV