

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

W.P.(C).No.6141 of 2014 (P)

PETITIONER(S):-

A.V.ELDHOSE, S/O. VARGHESE,
ARAKKAL HOUSE, ASAMANNUR P.O.,
CHERUKUNNAM, PIN-683 549.

BY ADV. SRI.DINESH MATHEW J.MURICKEN.

RESPONDENT(S):-

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1. KERALA HEAD LOAD WORKERS WELFARE BOARD,
DISTRICT COMMITTEE ERNAKULAM, ERNAKULAM P.O.,
KOCHI-682 016.
 2. THE SECRETARY,
KERALA HEAD LOAD WORKERS WELFARE BOARD,
DISTRICT COMMITTEE, ERNAKULAM, ERNAKULAM P.O.,
KOCHI-682 016.
 3. RAJAN
PRESIDENT, HEAD LOAD AND GENERAL WORKERS UNION (INTUC),
ASHAMANNOR P.O., PERUMBAVOOR, NEEROLIKKAL,
CHERUKUNNAM, ASHAMANNOR P.O.,
ERNAKULAM DISTRICT-683 549.
 4. M.A.JOSEPH
PRESIDENT, HEAD LOAD AND GENERAL WORKERS UNION (HMS),
ASHAMANNOR P.O., PERUMBAVOOR, MOLATHU,
CHERUKUNNAM, ASHAMANNOR P.O.,
ERNAKULAM DISTRICT-683 549.
 5. K.Y.KURIACHAN,
KALARIKKAL VEEDU, CHERUKUNNAM, ASHAMANNOR P.O.,
ERNAKULAM DISTRICT-683 549.

6. P.C.MANI,
NJATTUTHODIYIL VEEDU, POOMALAKKARA, ASHAMANNOOR P.O.,
ERNAKULAM DISTRICT-683 549.
7. N.V.ABRAHAM,
NEDUMPURATH VEEDU, PUNNAYAM, ASHAMANNOOR P.O.
ERNAKULAM DISTRICT-683 549.
8. M.R.DEVASSYKUTTY,
MANKUZHA VEEDU, POOMALA, ASHAMANNOOR P.O.
ERNAKULAM DISTRICT-683 549.
9. M.V.CHACKO
MANGATT MANKUZHA VEEDU, PUNNAYAM, ASHAMANNOOR P.O.
ERNAKULAM DISTRICT-683 549.

R1 & R2 BY STANDING COUNSEL SRI.C.S.AJITH PRAKASH.
R4 & R5 BY ADVOCATE SRI.M.P.PRAKASH.
R1 & R2 BY ADV. SRI.C.A.MAJEED, SC, KHWWB.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06-03-2015, ALONG WITH W.P.(C).NO.9343 OF 2014-P, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXT.P1 : COPY OF THE COMMON JUDGMENT IN WPC NO.26448/2011
PASSED BY THIS HON'BLE COURT DTD.4.11.2013.
- EXT.P2 : COPY OF THE NOTICE ISSUED TO THE PETITIONER BY THE 2ND
RESPONDENT DTD.30.12.2013.
- EXT.P3 : COPY OF THE REQUEST LETTER FOR THE PETITIONER
SUBMITTED BEFORE THE 2ND RESPONDENT DTD.9.1.2014.
- EXT.P4 : COPY OF THE ORDER NO.113/09 ISSUED BY THE
2ND RESPONDENT DTD.13.1.2014.
- EXT.P5 : COPY OF THE SALARY STATEMENT ISSUED BY THE KERALA HEAD
LOAD WORKERS WELFARE BOARD, PERUMBAVOOR SUB
COMMITTEE TO THE WORKERS FOR THE MONTH OF
NOVEMBER, 2013.
- EXT.P6 : COPY OF THE SALARY STATEMENT ISSUED BY THE KERALA HEAD
LOAD WORKERS WELFARE BOARD, PERUMBAVOOR SUB
COMMITTEE TO THE WORKERS FOR THE MONTH OF
DECEMBER, 2013.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J.

W.P(C) Nos.6141 & 9343 of 2014-P

Dated this the 06th day of March, 2015

JUDGMENT

Both these writ petitions are filed by headload workers affiliated to different Trade Unions, challenging the very same order of the respondent-Board, produced at Exhibit P4 in W.P.(C). No.6141 of 2014 and Exhibit P8 in W.P.(C).No.9343 of 2014. The controversy arose in the issuance of Identity Cards under Rule 26A of the Kerala Headload Workers Rules, 1981 [for brevity “Headload Workers Rules”] and the consequent issuance of Identity Cards under Para 6A of the Kerala Headload Workers (Regulation of Employment and Welfare) Scheme, 1983 [for brevity “the Scheme”] within the area of Asamannoor Panchayat near Perumbavoor. The same was agitated before this Court in earlier writ petitions, which were disposed of by a common judgment dated 04.11.2013 produced in both the writ petitions.

2. This Court having considered the rival contentions, confirmed the Rule 26A Cards issued in favour of the various employees under the various Trade Unions. However, since the

Para 6A Cards under the Scheme were issued only to one Trade Union, this Court directed that the inclusion of the members of the two other Trade Unions, being INTUC and HMS, has to be taken up and considered; looking at the availability of work in the area as also the factum of the persons seeking such issuance of Para 6A Identity Cards being engaged in any other employment.

3. The learned counsel for the petitioner in W.P.(C). No.9343 of 2014 impugn the order passed by the Board pursuant to the judgment of this Court on two grounds. The learned counsel contends that though issuance of Para 6A Scheme Cards was directed by this Court, the authority has proceeded under Para 6B of the Scheme. Further, there was evidence taken on 04.01.2014 and a report dated 07.01.2014 referred to, as item Nos.2 and 3, in the impugned order. The members of the INTUC and HMS Unions contend that the enquiry was conducted behind their back and even the report was not supplied to them.

4. The learned counsel appearing for the petitioner in W.P.(C).No.6141 of 2014, however, challenges the impugned order on the ground that he has evidence that the workers now granted

registration under Para 6A of the Scheme are persons who are registered under other welfare fund enactments and, hence, cannot be headload workers.

5. In the teeth of the controversies, it is only proper that the Board consider the entire matter afresh. With respect to the proceedings under Para 6B, it is to be noticed that Para 6B speaks of replenishment of workers in the rolls of the Committee, which additional requirement arises on account of retirement, death, disability and so on and so forth. That is not what is intended by this Court in the judgment in W.P.(C).No.15367 of 2009 and connected cases dated 04.11.2013, produced in both the writ petitions. True, going by Para 6B(4) of the Scheme, definitely the issuance of cards made under Para 6B would also be an Identity Card under Para 6A of the Scheme. If there is additional requirement, the same can be considered under Para 6B, *de hors* the observation in the earlier judgment. However, the factual consideration has to be on the question of the availability of work in the area as also the alleged employment of the persons now granted Identity Cards under Para 6A. The impugned orders in the above writ petitions, hence, would be

set aside only to facilitate a proper consideration as directed hereinabove. Both the parties shall be issued with the enquiry report dated 07.01.2014 and shall be heard by the appropriate authority of the respondent-Board and a decision taken within a period of two months from the date of receipt of a certified copy of this judgment. The persons who are issued with Identity Cards under Para 6A shall be continued, if they are desirous of the same, till final orders are passed.

The writ petitions are disposed of as above.

Sd/-
K. Vinod Chandran,
Judge

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