

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 22ND DAY OF SEPTEMBER 2015/31ST BHADRA, 1937

WP(C).No. 6924 of 2015 (M)

PETITIONERS:

1. **A MOHANAN AGED 46 YEARS**
S/O.AYYAPPAN
JUNIOR TECHNICIAN (FITTER) KMML LIMITED
MINERAL SEPARATION UNIT, KOVILTHOTTAM, CHAVARA
KOLLAM, RESIDING AT MIDHUN BHAVAN, INCHAKKAD
CHAVARA P.O., KOLLAM.
2. **ANIL KUMAR S**
S/O.SIVADASAN, JUNIOR TECHNICIAN (FITTER)
KMML LIMITED, MINERAL SEPARATION UNIT, KOVILTHOTTAM
CHAVARA, KOLLAM, RESIDING AT ANIL BHAVAN
KOIVILA P.O., THEVALAKKARA, KOLLAM.
3. **JAIHIND G**
S/O.GOPINATHAN, JUNIOR TECHNICAL (FITTER)
KMML LIMITED, MINERAL SEPARATION UNIT, KOVILTHOTTAM
CHAVARA, KOLLAM, RESIDING AT SANTHA NIVAS
ALUMKADAVU P.O., KARUNAGAPPALLY.
4. **BINDHU KUMAR**
S/O.GOPALAKRISHNAN
JUNIOR TECHNICAL (FITTER) KMML LIMITED
MINERAL SEPARATION UNIT, KOVILATHOTTAM, CHAVARA
KOLLAM, RESIDING AT MARACKASERIL THEKKETHIL
PANMANA P.O., CHAVARA.
5. **RAHUL N.S**
S/O.NAKULAN P., JUNIOR TECHNICAL (FITTER)
KMML LIMITED, MINERAL SEPARATION UNIT, KOVILTHOTTAM
CHAVARA, KOLLAM RESIDING AT DEVIKRIPA
KUNNATHOOR EAST P.O., NEDIYAVILA.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS:

1. **STATE OF KERALA**
REPRESENTED BY THE SECRETARY TO GOVERNMENT
INDUSTRIES DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM - 695 001.

2. THE KERALA MINERALS AND METALS LIMITED
SANKARAMANGALAM, CHAVARA P.O., KOLLAM - 691 583
REPRESENTED BY ITS MANAGING DIRECTOR.
3. THE MANAGING DIRECTOR
THE KERALA MINERALS AND METALS LIMITED
(MINERAL SEPARATION UNIT), SANKARAMANGALAM
CHAVARA P.O., KOLLAM - 691 583.
4. THE MANAGER (P & A)
THE KERALA MINERALS AND METALS LIMITED
(MINERALS SEPARATION UNIT), SANKARAMANGALAM
CHAVARA P.O., KOLLAM - 691 583.
5. THE PERSONAL OFFICER
THE KERALA MINERALS AND METALS LIMITED
(MINERAL SEPARATION UNIT), SANKARAMANGALAM
CHAVARA P.O., KOLLAM - 691 583.

R2-R5 BY ADVS. SRI.E.K.MADHAVAN
SRI.V.KRISHNA MENON
SMT.P.VJAYAMMA
R1 BY GOVERNMENT PLEADER SMT. M.J. RAJASREE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22-09-2015,
ALONG WITH WPC. 7474/2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS

- EXT.P1: TRUE COPY OF THE CIRCULAR NO. 3219/13/90/ID DATED 01/08/1990
ISSUED BY THE GOVERNMENT.
- EXT.P2: TRUE COPY OF THE NOTIFICATION DATED 21/01/2011 ISSUED BY THE
RESPONDENTS.
- EXT.P3: TRUE COPY OF THE APPOINTMENT ORDER NO. MS/PD/T4/11/776 DATD
01/03/2011 ISSUED BY THE RESPONDENTS TO THE 1ST PETITIONER.
- EXT.P4: TRUE COPY OF THE APPOINTMENT ORDER NO. MS/PD/T4/11/780
DATED 01/03/2011 ISSUED BY THE RESPONDENTS TO THE 2ND
PETITIONER.
- EXT.P5: TRUE COPY OF THE NOTIFICATION DATED 04/01/2012 ISSUED BY THE
RESPONDENTS.
- EXT.P6: TRUE COPY OF THE NOTIFICATION DATED 04/01/2012 ISSUED BY THE
RESPONDENTS
- EXT.P7: TRUE COPY OF THE APPOINTMENT ORDER NO. MS/PD/T4/12/139
DATED 29/03/2012 ISSUED BY THE RESPONDENTS TO THE 1ST
PETITIONER.
- EXT.P8: TRUE COPY OF THE APPOINTMENT ORDER NO. MS/PD/T4/12/139
DATED 29/03/2012 ISSUED BY THE RESPONDENTS TO THE 5TH
PETITIONER.
- EXT.P9: TRUE COPY OF THE NOTIFICATION IN THE DAILY DATED 27/04/2013
ISSUED BY THE RESPONDENTS.
- EXT.P10: TRUE COPY OF THE ORDER NO. MS/PD/ADM 24/13/302 DATED
05/09/2013 ISSUED BY THE RESPONDENTS TO THE 1ST PETITIONER.
- EXT.P11: TRUE COPY OF THE APPOINTMENT ORDER NO. MS/PD/T4/13/327
DATED 03/10/2013 ISSUED BY THE RESPONDENTS TO THE 1ST
PETITIONER.
- EXT.P12: TRUE COPY OF THE ORDER NO. MS/PD/T4/14 DATED 02/01/2015
ISSUED BY THE RESPONDENTS TO THE PETITIONERS.
- EXT.P13: TRUE COPY OF THE SERVICE DETAILS OF THE 4TH PETITIONER
ISSUED BY THE RESPONDENTS DATD 20/11/2014.
- EXT.P14: TRUE COPY OF THE NOTIFICATION DATED 11/11/2014 ISSUED BY THE
RESPONDENTS.

- EXT.P15: TRUE COPY OF THE NOTICE NO. MS/PD/ADM/24/15/68 DATED 13/02/2015 ISSUED BY THE RESPONDENTS TO THE 1ST PETITIONER
- EXT.P16: TRUE COPY OF THE APPLICATION SUBMITTED BY SRI.RAJU UNDER RIGHT TO INFORMATION ACT AND ITS REPLY NO:KMML/RIA/40/(15-16) DATED 10.07.2015/2234 ISSUED BY THE PUBLIC INFORMATION OFFICER
- EXT.P17: TRUE COPY OF THE REPRESENTATION DATED 15.08.2015 FILED BY THE PETITIONERS BEFORE THE HON'BLE MINISTER AND RESPONDENTS 1 AND 2

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) Nos. 6924 & 7474 of 2015

Dated this the 22nd day of September, 2015

J U D G M E N T

The petitioners in the above writ petitions are aggrieved with the fact that they are continued, as selected by successive notifications, in each year, despite Ext.P1 circular of the Government.

2. Ext.P1 circular of the Government is with respect to appointments in Public Sector Undertakings; to posts falling outside the purview of the Public Service Commission. The circular mandates that such appointments shall be made from the nominees of the Employment Exchanges, Apprentices under the Apprenticeship Act and special categories like evictees of land for establishment of the Company itself.

3. The petitioners do not contend as to under what category they specifically are entitled. The petitioners had been selected initially as per Ext.P2 notification dated

22.1.2011 and continued for a year, then again selected by a subsequent notification of 4.1.2012 at Ext.P6. The petitioners have also undergone a skill test before such appointments were made. Pending a subsequent notification, the petitioners were granted two months extension as per Ext.P12.

4. The present challenge is against Ext.P14 notification of 11.11.2014, pursuant to which a fresh selection was conducted and the select list prepared. The petitioners approached this Court fearing termination and obtained an order that none would be appointed as per the present list; without obtaining orders from the Court.

5. The petitioners were continued on the basis of the Interim Order. However, now the learned counsel for the respondent Company submits that the 5 petitioners in W.P.(C) No. 6924/2015 and the first 5 petitioners in W.P.(C) No.7474/2015 stands selected in the subsequent notification. It is also submitted that the successive

notifications for selection were issued only in the context of the Government having not sanctioned the posts. However, since there was a requirement, contract employment was resorted to in the successive years and none could claim a right on the basis of the same.

6. This Court is of the opinion that the petitioners cannot have any vested right for continuance or regularisation, especially since they were appointed by a selection held in the successive years. It is also pertinent that the Government has not considered the sanction of the posts sought for by the respondent Company, till date, which warranted the intermittent selections and appointment on contract basis.

7. In such circumstance, the 3rd respondent shall immediately take up the matter with the 1st respondent and the sanction of the posts shall be considered by the 1st respondent within a period of six months from the date of receipt of the certified copy of the judgment. The Interim

Order shall stand vacated insofar as the persons who are now selected pursuant to Ext.P14 notification shall be granted appointment on contract basis. It is made clear that when the posts are sanctioned, those who have been continuously continued and entitled to a preference as per Ext.P1 Circular, should also be considered.

The Writ Petitions are disposed of with the above observation.

Sd/-
K.VINOD CHANDRAN,
JUDGE

The words "first 5 petitioners" occurring in the 4th line of the 5th paragraph of the common judgment dated 22.09.2015 in W.P.(C) No.6924/2015 and 7474/2015 are corrected and substituted with the words "first 4 petitioners", vide order dated 05.01.2016 in I.A. No.17351/2015 in W.P.(C) No.7474/2015.

Sd/-
Registrar (Judicial)

//True Copy//

P.A. to Judge