

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

WP(C).No. 10783 of 2013 (W)

PETITIONER(S):

**MR.SHAJIMON E. K.
MUTTEZHATHU HOUSE, PADINJARE MURI, VAIKOM P.O.,
VAIKOM, KOTTAYAM DISTRICT.**

BY ADV. SMT.A.SREEKALA

RESPONDENT(S):

- 1. KERALA WATER AUTHORITY,
REPRESENTED BY ITS CHAIRMAN, 'JALA BHAVAN',
VELLAYAMBALAM P.O., THIRUVANANTHAPURAM-695 033.**
- 2. MANAGING DIRECTOR,
KERALA WATER AUTHORITY, 'JALA BHAVAN',
VELLAYAMBALAM P.O., THIRUVANANTHAPURAM-695 033.**
- 3. ASSISTANT EXECUTIVE ENGINEER,
WSP SUB DIVISION, KERALA WATER AUTHORITY, VAIKOM P.O.,
KOTTAYAM DISTRICT-686 141.**
- 4. ASSISTANT ENGINEER,
WSP SUB DIVISION, KERALA WATER AUTHORITY, VAIKOM P.O.,
KOTTAYAM-686 141.**
- 5. EMPLOYMENT OFFICER,
TOWN EMPLOYMENT EXCHANGE, VAIKOM P.O.,
KOTTAYAM-686 141.**

**R1TO R4 BY ADVS. SRI.JOSEPH JOHN, SC, KERALA WATER AUTHORITY
SRI.JOSEPH JOHN, SC, KERALA WATER AUTHORITY
R5 BY GOVERNMENT PLEADER SMT LILLY K. T.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 10783 of 2013 (W)

APPENDIX

PETITIONER(S)' EXHIBITS:-

**P1 : COPY OF THE REPLY GIVEN BY THE TOWN EMPLOYMENT OFFICER, VAIKOM,
DTD.21.1.2013.**

RESPONDENT(S)' EXHIBITS:- NIL

KRJ

/True Copy/

P.Ato Judge

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.10783 of 2013

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Dated this the 9th day of January, 2015

JUDGMENT

The petitioner is aggrieved by the action of respondents 1 to 4 in making continuous appointment in W.S.P Sub Division, Vaikom on contract basis for the past several years without furnishing the details of vacancies to the employment exchange.

2. According to the petitioner, he has registered his name in the town employment exchange at Vaikom in the year 1989 and his date of birth is 2.2.1965. He alleges that he has approached respondents 3 and 4 several times during the last 10 years with a request to get an employment there or to report vacancies to the employment exchange so that deserving persons could be employed there. According to him, respondents 3 and 4 have appointed other persons without considering his request.

3. In the counter affidavit filed by the respondents 1 and 2 they contended that there are no sanctioned post of Valve Operators in Vaikom Sub Division and as and when need for valve operators arises, labourers supplied by contractors are engaged for doing the duty. According to them, vacancies against sanctioned posts alone can be reported to employment exchange. They would further contend that in order to ensure continuous shift of duty of valve operators, labourers are supplied by contractors and they are engaged for the said job. According to them, that is not possible in the case of candidates selected by employment exchange.

4. Arguments have been heard.

5. As per Section 5 of the Employment Exchange (compulsory Notification of Vacancies) Act, 1959, the employer in every establishment is duty bound to report vacancies to the concerned employment exchanges. Section 5(1)) reads as follows:

“After the commencement of this Act in any state or area thereof, the employer in every

establishment in public sector in that state or area shall furnish such information or return as may be prescribed in relation to vacancies that have occurred or are about to occur in that establishments to such employment exchanges as any be prescribed.”

6. It is evident that respondents 3 and 4 have not reported vacancies to the Employment Exchange, Vaikom. It is true that Rule 9A, Part II of the KS & SSR provides for appointment under agreements. However, the same cannot override the provisions contained in the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959.

7. Here, the petitioner was aged 43 years on the date of filing of the writ petition. His date of birth, according to his averment, is 2.2.1969. According to the petitioner, if all the departments under respondents 1 and 2 report vacancies correctly to the employment exchanges, the persons who are waiting for employment would get the job as envisaged by the provisions of the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959. The argument of

the respondents that there are no sanctioned post and, therefore, the aforesaid provision need not be resorted to, does not appear to be convincing.

Therefore, the writ petition is disposed of directing respondents 1 and 2 to prevail upon all the departments under them to report vacancies correctly to the employment exchanges as envisaged by Section 5(1) of the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959.

sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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