

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE B.P.RAY

MONDAY, THE 9TH DAY OF JANUARY 2012/19TH POUSHA 1933

WPC.No. 24775 of 2003 (Y)

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PETITIONER(S)

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**BINU YOHANNAN, S/O.LATE YOHANNAN,
NADUKUDIYIL HOUSE, THADIYANPADU P.O.,
PEPPARA, IDUKKI - 685 602.
TEMPORARY WATCHMAN OF K.S.E.BOARD.
VAZHATHOPE.**

**BY ADVS.SRI.JOHNSON P.JOHN
SRI.RAJU SEBASTIAN VADAKKEKKARA**

RESPONDENT(S)

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- 1. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY SECRETARY,
VYDHYUTHI BHAVAN, PATTOM,
THIRUVANANTHAPURAM.**
- 2. CHIEF ENGINEER, (HRM), K.S.E.B, VYDUTHI BHAVAN,
PATTOM, THIRUVANANTHAPURAM.**
- 3. ASSISTANT EXECUTIVE ENGINEER, KERALA STATE
ELECTRICITY BOARD, VAZHATHOPE, IDUKKI COLONY,
IDUKKI - 685 602.**

**BY ADVS. SRI.A.SUDHI VASUDEVAN, SC, KSEB
SRI.P.SANTHALINGAM, SC, KSEB**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09-01-2012 , THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

JUDGMENT

NONE APPEARS. DISMISSED FOR DEFAULT

09/01/2012

**SD/- B.P.RAY, JUDGE
/TRUE COPY/**

P.A. TO JUDGE.

SVS

K. VINOD CHANDRAN, J

W.P(C) No. 24775 of 2003

Dated this the 10th day of September, 2015

J U D G M E N T

The above writ petition projects the pathetic situation of a family of three children whose parents died in successive accidents. The petitioner's father was a contract employee of the Kerala State Electricity Board and while on duty, pursuant to an explosion in the store room at Vazhathope Division, the petitioner's father succumbed to the burns suffered thereunder. Considering the impecunious condition of the family, the petitioner's mother was appointed as a helper in the Board' Dispensary at Vazhathope, on adhoc basis. Subsequently as fate would have it, the petitioner's mother was also killed in a land slide on 25.08.2000. The three children were orphaned.

2. The petitioner who was the second among the siblings, was given contract employment and also allotted a quarters. The petitioner was continued so and the petitioner had

been repeatedly making representation, before the Board for appointment on a compassionate basis. The Board not only failed to consider the said application but later terminated him from service and issued a notice under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, and effected eviction by Ext.P11. The petitioner now is faced with the prospect of being evicted from the residential quarters and also left with no employment .

3. I have heard Ally Paul Thottam, learned counsel for the petitioner as also the learned Standing counsel for the Board.

4. A perusal of the records would show that the pathetic condition of the family, was projected at that time also by the media and also by public spirited persons. Ext.P4 is a joint representation given to the Board pursuant to which the petitioner was employed as a contract employee. The petitioner also had submitted a representation at Ext.P6 dated 22.04.2003. Obviously it

is on consideration of such representations that the petitioner was employed as a contract employee.

5. The Board has filed a counter affidavit dated 17.1.2009 in which it has been categorically stated that the petitioner would not be entitled appointment under the compassionate scheme. The scheme has also been produced as Annexure R1(a) wherein benefit is available only to regular employees of the Board, and part time contingent employees. Neither the petitioner's father not the petitioner's mother was in an employment with the Board, which would entitle the dependents to claim compassionate appointment under Ext.R1 (a) Scheme. This Court cannot find any infirmity in compassionate appointment being not offered to the petitioner under the scheme.

6. However, it is to be noticed that by Ext.P7 and P8 the Deputy Director and the Director of the Research and Dam Safety Division No.II Vazhathope, wherein the petitioner was employed as

a contract worker had requested for consideration of the petitioner's case on humanitarian grounds. It is to be noticed that when the incident occurred such compassion was shown by the Board even de hors the provisions of the scheme and the petitioner engaged in a contract employment. However, by passage of time, the compassion too waned and the petitioner has now been terminated from service and also asked to vacate the quarters. The compassion extended obviously was one to get over the public outcry at the time when the incident took place. Having engaged the petitioner for long periods the Board has a duty to see that the petitioner is provided with a livelihood since he would have probably not sought for any other alternative employment, in the hope that he would be at least employed permanently as a contract employee.

7. It is only proper that the Board consider afresh the petitioner's claim since admittedly, after the accident, which

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occurred in the year 2000 the petitioner was continued for long periods in the Board as a contract employee. The Board could atleast consider continuance of the petitioner in the contract employment with the Board. Such consideration shall be made at any rate within a period of four months from the date of receipt of a certified copy of this judgment and the petitioner shall not be evicted as of now, and Ext.P11 shall be kept in abeyance till such consideration is made.

Writ petition is disposed of. No costs.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

jma

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P.A to Judge