

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 21ST DAY OF OCTOBER 2015/29TH ASWINA, 1937

WP(C).No. 19671 of 2005 (P)

PETITIONER(S):

**V.BALAKRISHNAN,
WORKS ASSISTANT (CIVIL), NATIONAL AIRPORT, AUTHORITY
CALICUT AIRPORT.**

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENT(S):

- 1. NATIONAL AIRPORT AUTHORITY,
REPRESENTED BY ITS EXECUTIVE DIRECTOR, P & A
SAFDARJUNG AIRPORT, NEW DELHI.**
- 2. REGIONAL CO-ORDINATING DIRECTOR,
NATIONAL AIRPORTS AUTHORITY, MADRAS.**
- 3. AIRPORT DIRECTOR,
NATIONAL AIRPORT AUTHORITY, TRIVANDRUM AIRPORT.**
- 4. DEPUTY DIRECTOR OF AERODROME,
NATIONAL AIRPORT AUTHORITY, CALICUT AIRPORT.**

R,R4 BY ADV. SRI.N.N.SUGUNAPALAN, SC, CALICUT AIRPOR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 21-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONERS EXHIBITS:

- | | |
|---------------|---|
| EXT.P1 | COPY OF THE APPOINTMENT ORDER ISSUED TO THE PETITIONER
DTD. 29.5.90 |
| EXT.P2 | COPY OF THE REPRESENTATION DATED 14.9.98 SUBMITTED BY
THE PETITIONER. |
| EXT.P3 | COPY OF THE JUDGMENT IN OP NO.16800/93 OF THIS HON'BLE
COURT DTD. 13.12.02 |
| EXT.P4 | COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT
REJECTING THE CLAIM OF THE PETITIONER DTD. 09.05.03 |
| EXT.P5 | COPY OF THE CIRCULAR ISSUED BY THE RESPONDENT DTD.
25.7.95 |

RESPONDENTS EXHIBITS: NIL

// TRUE COPY //

PA TO JUDGE.

SB

K. VINOD CHANDRAN, J.

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Dated this the 21st day of October, 2015

J U D G M E N T

The petitioner is aggrieved with the fact that the persons working in the same post as Works Assistant (Civil), are treated differently by the 3rd respondent. The petitioner admittedly, was appointed as Works Assistant (Civil) on the pay scale of Rs.825-15-900-EB-20-1200 plus allowances. The petitioner was so appointed in the year 1990 and continued as such. In the year at that point of time itself, the persons, who were deployed from the Central Public Works Department (C.P.W.D) were continued on a higher scale of pay as per the terms and conditions of such absorption from C.P.W.D.

2. Subsequent to the petitioner's appointment, the Airport Authority changed the designation of Works Assistant (Civil) and insisted that those persons, who were redesignated as Junior Office Assistant should have additional qualification in type writing. The petitioner challenged the said stipulation by

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O.P No.16800 of 1993.

3. In the said original petition, the petitioner also had a claim for equalisation of pay with those similarly situated and absorbed from the C.P.W.D. While the writ petition was pending, the re-designation of the post of Works Assistant and the revised eligibility requirements was reviewed by the authority. Hence, the petitioner has no complaint on that issue, as of now. The petitioners prayer with respect to the equalisation of pay was directed to be considered. The same was considered and order passed rejecting such prayer at Ext.P4 on 09.05.2003. The petitioner filed the above writ petition after two years ie. on 27.06.2005.

4. The learned Counsel for the petitioner would rely on a judgment of the Hon'ble Supreme Court in **Union of India and Others v. Rajesh Kumar Gond [2014 (13) SCC 588]**. Therein, the Junior Hindi Translator, working in the office of the Director General of Commercial Intelligence and Statistics sought

parity of pay with the Junior Translators, who were working in the Central Secretariat Official Language Services (C.S.O.L.S). The Hon'ble Supreme Court specifically found that the 5th Central Pay Commission had recommended that the pay scales of Junior Hindi Translator of the C.S.O.L.S may be applied to all subordinate offices subject to their functional requirement. Only in the teeth of such recommendation having been made and also on the respondent being unable to show any difference in the functional requirement of the concerned posts, the Hon'ble Supreme Court found that the pay scales have to be equated in a uniform matter. As per the said decision, the objection on the basis of two sources of recruitment, was also negated to find reasonableness in the prayer for equalisation.

5. This Court is of the opinion that herein, the facts stand on a totally different footing. The persons, who were absorbed from the C.P.W.D were absorbed on specific terms and conditions and their stipulation of pay was also made as per the

terms of their absorption in the respondent authority. The same would have been definitely on a consideration of the pay scales available to them in the parent organisation, being the C.P.W.D; which was entitled to be protected.

6. However, with respect to the petitioner, the petitioner was appointed directly to the respondent authority by way of a recruitment and on the strength of Ext.P1 appointment order. The petitioner was quite aware of the pay scale in which he was appointed and continued. The petitioner cannot seek for consideration of pay at par with the persons absorbed from the C.P.W.D, since their terms of appointment were totally different.

The writ petition hence would stand dismissed for the above reasons and for the reasons of the delay noticed.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB/26 /10 /2015

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P.A to Judge.