

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).No. 13618 of 2010 (B)

PETITIONER(S) :

1. R.PARAMESWARAN
U.D. CLERK, GURUVAYUR DEVASWOM, GURUVAYUR-680 101.

RESIDING AT B-9, DEVASWOM STAFF QUARTERS, SOUTH NADA
GURUVAYUR.P.O, 680 101.

2. T.V. KRISHNADAS,
U.D. CLERK, GURUVAYUR DEVASWOM, GURUVAYUR-680 101.

RESIDING AT "KRISHNA MANIKKADHUPADY"
GURUVAYUR-680 101.

3. M. PRABHAKARAN,
U.D. CLERK, GURUVAYUR DEVASWOM, GURUVAYUR-680 101.

RESIDING AT MANNUR HOUSE, THIRUVENKITOM
GURUVAYUR- 680 101.

BY ADV. SRI.BENNY GERVACIS

RESPONDENT(S) :

1. THE GURUVAYUR DEVASWOM MANAGING
COMMITTEE, GURUVAYUR-680 101
REPRESENTED BY THE ADMINISTRATOR.

2. THE ADMINISTRATOR,
GURUVAYUR DEVASWOM, GURUVAYUR-680 101

3. THE GURUVAYUR DEVASWOM COMMISSIONER,
THIRUVANANTHAPURAM.

4. SRI.P. MANOJKUMAR,
U.D. CLERK, GURUVAYUR DEVASWOM, GURUVAYUR - 680 101.

R,R1&R2 BY ADV. SRI.V.KRISHNA MENON
R,R4 BY ADV. SRI.SANTHEEP ANKARATH
R,R4 BY ADV. SRI.V.C.MADHAVANKUTTY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
24-02-2015 ALONG WITH WPC.26420/2010, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

A P P E N D I X

PETITIONERS' EXHIBITS

EXT.P1: TRUE COPY OF REPRESENTATION DT.22.3.2008 SUBMITTED BY THE 1ST PETITIONER TO R2.

EXT.P2: TRUE COPY OF REPRESENTATION DT.10.10.08 SUBMITTED BY THE PETITIONERS AND OTHERS TO R2.

EXT.P3: TRUE COPY OF REPRESENTATION DT.16.11.09 SUBMITTED BY THE PETITIONERS AND OTHERS TO R2.

EXT.P4: TRUE COPY OF REPRESENTATION DT.24.03.09 SUBMITTED BY THE PETITIONERS AND OTHERS TO R2.

EXT.P5: TRUE COPY OF PETITION DT.12.1.2010 SUBMITTED BY THE PETITIONERS AND OTHERS TO R2.

EXT.P6: TRUE COPY OF DECISION NO.3 OF THE GURUVAYUR DEVASWOM EXECUTIVE COMMITTEE, DT.21.6.1990.

EXT.P7: TRUE COPY OF LETTER NO.276/2008/G.D.C DATED 19.11.2008 ISSUED BY R3.

EXT.P8: TRUE COPY OF THE ORDER NO.B1-4604/2010 ISSUED BY R2 DT.8.7.2010.

EXT.P9: TRUE COPY OF THE DECISION DT.9.6.2010 ISSUED BY R2.

EXT.P10: TRUE COPY OF THE PROCEEDINGS NO.B1-5192/1985 DT.5.4.97.

EXT.P11: TRUE COPY OF AGENDA NO.15076/2000.

EXT.P12: TRUE COPY OF THE LEGAL OPINION FURNISHED BY SRI.K.P.RADHAKRISHNA MENON, FORMER JUDGE OF THIS COURT DT.8.3.2010.

EXT.P13: TRUE COPY OF THE PROCEEDINGS NO.A-576/90 DT.7.3.90 ISSUED BY R2.

EXT.P14: TRUE COPY OF THE RELEVANT PAGES OF THE DRAFT SENIORITY LIST DT.28.10.2010.

RESPONDENTS' EXHIBITS

EXT.R1(a): TRUE COPY OF THE ORDER OF THE GURUVAYUR DEVASWOM COMMISSIONER DT.17.4.07.

EXT.R1(b): TRUE COPY OF THE RESOLUTION DT.13.4.2010.

EXT.R1(c): TRUE COPY OF THE LETTER DT.27.4.2010.

/TRUE COPY/

P.S TO JUDGE

P.V.ASHA, J.

W.P(c) Nos.13618 & 26420 of 2010-B

Dated this the 24th day of February, 2015

JUDGMENT

The petitioners who are working as Upper Division Clerks under the Guruvayur Devaswom filed these Writ Petitions claiming declaration of their seniority above respondents 4 to 7 and promotion to the post of Superintendent in preference to them.

2. The petitioners were initially appointed as Clerks in 1986-87 on temporary basis. They were given regular appointment as per proceedings dated 6.1.1988. They filed W.P (c) No.13618/2010 was filed alleging that steps for promotion of the 4th respondent-Sri. P.Manojkumar, as Superintendent were being taken overlooking their seniority while their objections Exts.P1 to P5, claiming rectification of seniority list assigning them seniority above the contesting respondents, were pending.

3. W.P(c) No.26420/2010 was filed challenging Exts.P5 to P7 proceedings of the Devaswom. By Ext.P5 the inter-se seniority list of 11 UD Clerks who joined on 4.1.1988, on

regular appointment, was finalised and petitioners were ranked 10 and 11 below respondents 5 to 7; by Ext.P6 proceedings dated 22.06.2010, 3 senior most UD Clerks including respondents 5 and 6 were posted as Superintendents on working arrangement and by Ext.P7 proceedings, the seniority assigned to Sri P.Manoj Kumar-4th respondent was affirmed, rejecting the complaints against the seniority assigned to him and he was posted as Superintendent. The petitioners have also prayed for a declaration that they are seniors to respondents 4 to 7 inasmuch as their appointments were regularised on 6.1.1988 and respondents 4 to 8 as their juniors.

4. I heard Sri Benny Gervacis, the learned counsel appearing for the petitioners, Sri V.Krishna Menon - the learned Standing Counsel for the Guruvayur Devaswom, Smt. M.R. Sreeletha - the learned counsel for the 4th respondent and Sri Sajeev Kumar K.Gopal for respondents 5 to 7.

5. Respondents 1 & 2 have filed a counter affidavit stating that the petitioners were assigned seniority in accordance with law and they cannot have any claim for seniority above respondents 4 to 7. Sri V.Krishna Menon pointed out that the petitioners as well as respondents 5 to 7 were granted

regular appointment on 6.1.1988. Prior to their regular appointment, all of them had worked temporarily. By Ext.R1(a) proceedings dated 17.4.2007, the 1st respondent ordered that temporary service rendered by the 5 UD Clerks including the petitioners and respondents 5 to 7, prior to their regular appointment would be reckoned for increments. At the same time it was made clear that the said service cannot be counted towards seniority. Thereafter the inter-se seniority between the petitioners and respondents 5 to 7 was provisionally fixed as per Ext.R1(b) seniority list and called for objections from those affected by it. As all the 11 persons mentioned in Ext.R1(B) including the petitioners and respondents 5 to 7 joined duty on the same day--6.1.1988, the inter-se seniority between them was fixed in accordance with their age, in terms of Regulation 15 of the Guruvayur Devaswom Regulations which provides that when there are several employees who joined duty on the same date, their inter-se seniority shall be fixed in accordance with 'age'. Ext.R1(b) seniority list was finalised accordingly, as per Ext.P5 in accordance with the above regulations, after hearing the petitioners.

6. In Ext.R1(a) proceedings, which was issued pursuant

to the directions in W.P(c) No.33329 of 2006, the 1st respondent has made it clear that the daily wage NMR service/provisional service rendered by the petitioners and others mentioned therein would not be counted for seniority. In view of the condition stipulated in Ext.R1(a) order and in view of Regulation 15 of the Regulations and Ext.P6 seniority list, the petitioners cannot have any claim for seniority above the party respondents or to get promoted to the post of Superintendent in preference to them.

7. It is also pointed out that the 4th respondent was given appointment on compassionate grounds and he was made permanent with effect from 18.02.1987, which is prior to 6.1.1988, the date on which the petitioners were given regular appointment. Therefore there is no basis for the claim of the petitioners for seniority above him or respondents 5 to 7.

In view of the above circumstances, as evident from the counter affidavit as well as the proceedings Exts.R1(a) to R1(c) of the 1st respondent, the contentions raised by the petitioners do not have any basis. They do not have any right to be assigned seniority over the party respondents or to be considered for promotion in preference to their seniors-respondents 4 to 7. It is

declared so. In these circumstances, I do not find any reason to interfere with the impugned proceedings issued by the 1st respondent.

Accordingly, these Writ Petitions fail and are accordingly dismissed.

Sd/-
(P.V.ASHA, JUDGE)

rtr/

/true copy/

P.S to Judge