

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 17419 of 2007 (W)

PETITIONER:

P.MOHANACHANDRAN, S/O.K.PUSHPANGADAN,
AGED 58, RESIDING AT "KUDAJADRI", T.C.NO. 29/170(2)
KAVERADI ROAD, PETTA, THIRUVANANTHAPURAM.

BY ADV. SRI.G.S.REGHUNATH

RESPONDENT:

1. THE TRAVANCORE TITANIUM PRODUCTS LTD.,
THIRUVANANTHAPURAM, REP.BY ITS MANAGING DIRECTOR.

2. THE MANAGER (R & D),
TRAVANCORE TITANIUM PRODUCTS LTD.
THIRUVANANTHAPURAM.

3. THE GENERAL MANAGER (ORIGINALLY
EXECUTIVE DIRECTOR), TRAVANCORE
TITANIUM PRODUCTS LTD., THIRUVANANTHAPURAM.

4. THE MANAGER (P & A),
TRAVANCORE TITANIUM PRODUCTS LTD.
THIRUVANANTHAPURAM.

R,RESPONDENTS BY ADV. SRI.B.S.KRISHNAN(SR.) SC,TRAV.TITANIUM
R,RESPONDENTS BY ADV. SRI.K.ANAND (A.201)
R,RESPONDENTS BY ADV. SMT.LATHA KRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
21-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS

- EXT-P1: TRUE COPY OF THE GRADATION LIST AS ON 01/04/2007 OF THE 1ST RESPONDENT
- EXT-P2: TRUE COPY OF THE REPLY LETTER NO.PL/A/VRS/6256/2005 DATED 19/11/2005 OF THE EXECUTIVE DIRECTOR OF THE TRAVANCORE TITANIUM PRODUCTS LTD.
- EXT.P3: TRUE COPY OF THE REPRESENTATION SENT BY THE PETITIONER TO THE 1ST RESPONDENT ON 25/4/2006
- EXT.P4: TRUE COPY OF THE LETTER SENT BY THE EXECUTIVE DIRECTOR OF THE TRAVANCORE TITANIUM PRODUCTS LTD TO THE PETITIONER DATED 22/6/2006
- EXT.P5: TRUE COPY OF THE LETTER SENT BY THE PETITIONER TO THE EXECUTIVE DIRECTOR OF THE TRAVANCORE TITANIUM PRODUCTS LTD DATED 15/7/2006
- EXT.P6: TRUE COPY OF THE REPRESENTATION ON 28/05/2007 SENT BY THE PETITIONER
- EXT.P7: TRUE COPY OF THE ORDER ISSUED TO THE PETITIONER DIRECTING HIM TO REPOST TO SRI.G.JAYAKUMAR AND POSTING THE PETITIONER AS ASST.MANAGER, POLLUTION MONITORY WING.
- EXT.P8: TRUE COPY OF THE SCHEME FOR VOLUNTARY RETIREMENT INTRODUCED AS EARLY AS ON 05/09/2002 IN THE FIRST RESPONDENT
- EXT.P9: TRUE COPY OF THE ORDER NO.Pl/1/Vell/Ret./9/2006 DATED 25/09/2006 OF THE LABOUR WELFARE OFFICER
- EXT.P10: TRUE COPY OF THE MD'S ORDER NO.23/2007 DATED 05/07/2007
- EXT.P11: TRUE COPY OF THE DECISION OF THE BOARD OF DIRECTORS.
- EXT.P12: TRUE COPY OF THE LETTER DATED 07/07/2007 SENT TO THE PETITIONER BY THE MANAGER, TRAVANCORE TITANIUM PRODUCTS LTD.
- EXT.P13: TRUE COPY OF THE STANDING ORDERS OF 1967 OF THE TRAVANCORE TITANIUM PRODUCTS LTD.

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

PA TO JUDGE

K.SURENDRA MOHAN, J.

W.P.(C) No.17419 of 2007

Dated this the 21st day of January, 2015

J U D G M E N T

The petitioner has filed this writ petition challenging the manner in which he was superannuated on 31.07.2007. The contention of the petitioner is that, he was appointed as a Chemist in accordance with Exhibit P13 standing orders applicable to the first respondent company. It is pointed out that as per the standing orders, the retirement age of the petitioner is 60 years. According to him, he was entitled to continue in service until he attained the age of 60.

2. In the above circumstances, by Exhibit P10, the Managing Director of the first respondent Company informed the employees that, persons who had completed 58 years of age would have to retire by the end of July 2007. By Exhibit P12, the petitioner was informed that he would be superannuated on 31.07.2007. The petitioner thereupon filed this writ petition challenging the same. The only contention raised by the petitioner is that, in view of the

provision in Exhibit P13, he was entitled to continue in service until he attained 60 years of age. Since this Court has passed an interim order making his superannuation subject to the result of this writ petition, it is contended that, it is necessary to issue appropriate orders directing the petitioner to be granted the monetary benefits on basis of his entitlement to continue in service till the age of sixty years.

3. A counter affidavit has been filed by the first respondent. According to the first respondent, though the petitioner was appointed as an Assistant Chemist on 21.10.1977, he was promoted as a Junior Chemist on 14.05.1986. He was promoted as a Chemist in Grade V of the managerial cadre on 06.03.1992. Thereafter, he was promoted as an Assistant Manager (R&D) on 07.03.2003. When the petitioner was brought to the Managerial Cadre, he ceased to be workman. Exhibit P13 standing orders are applicable only to workmen. Persons in the Managerial

Cadre are subject to the decisions to be taken by the Board of Directors of the Company. Accordingly, the Board of Directors decided to limit the services of the persons working in the Managerial Cadre to 58 years. The said decision was taken considering the poor financial condition of the company.

4. The action of the first respondent in proceeding to superannuate similar persons in the Managerial Cadre was the subject matter of challenge before this Court in W.P.(C) No.12120 of 2011. As per judgment dated 28.05.2013, the said writ petition was dismissed holding that the Management was within its limits in proceeding to terminate employees who had attained 58 years. In view of the above, it is contended that, this writ petition is also only to be dismissed.

5. Heard. In view of the fact that, the petitioner was brought to the Managerial Cadre on 06.03.1993, which fact is not disputed by the petitioner, the petitioner ceased to be

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a workman to whom Exhibit P13 Standing Orders were applicable. It has been held by this Court in the judgment dated 28.05.2013 in W.P.(C) 12120 of 2011, that the Management was within its powers to order that persons who had attained 58 years of age shall retire by the end of July 2007. In view of the above decision of this Court in a similar writ petition, I do not find any grounds to interfere with the impugned order of the respondents or to grant any of the reliefs sought for by the petitioner .

For the above reasons, this writ petition is dismissed following the decision in W.P.(C) No.12120 of 2011.

Sd/-
K.SURENDRA MOHAN,
JUDGE

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