

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WP(C).No. 21087 of 2005 (I)

PETITIONER(S):

**K.VALSALA, W/O.K.P.SANKARAN NAMBOODIRI,
AGED 51 YEARS, LOWER DIVISION CLERK,
COCHIN DEVASWOM BOARD OFFICE, THRISSUR.**

**BY ADVS.SRI.V.A.MUHAMMED
SRI.K.E.HAMZA**

RESPONDENT(S):

**THE SECRETARY,
COCHIN DEVASWOM BOARD, THRISSUR.**

**BY ADVS. SRI.KRISHNA MENON, SC
SRI.M.RAMESH CHANDER, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 21087 of 2005 (I)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE PROCEEDINGS OF THE RESPONDENT.

EXT.P2: TRUE COPY OF THE REPRESENTATION FILED BEFORE THE RESPONDENT.

EXT.P3: TRUE COPY OF THE JUDGMENT IN WP(C) NO.25074/2004 OF THIS HON'BLE COURT.

EXT.P4: TRUE COPY OF THE HEARING NOTE SUBMITTED ON BEHALF OF THE PETITIONER.

EXT.P5: TRUE COPY OF THE PROCEEDINGS OF THE RESPONDENT.

EXT.P6: TRUE COPY OF THE LETTER OF THE RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.M. SHAFFIQUE, J.

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W.P. (C) No. 21087 of 2005

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Dated this, the 9th day of November, 2015

J U D G M E N T

Petitioner has approached this Court challenging Ext.P5 and seeking for a declaration that she is entitled to get arrears of salary in the category of Lower Division Clerk from 01/4/2000.

2. The facts involved in the writ petition would disclose that the petitioner was appointed to the post of Lower Division Clerk as per proceedings of the Cochin Devaswom Board dated 9/12/2003. By virtue of the above order, her appointment was effective from 01/4/2000 as Lower Division Clerk and she was given all other benefits of fixation of salary and continuity in service in the post of LD Clerk w.e.f. 01/4/2000. However, there is no reference to the payment of salary in the post of LD Clerk w.e.f. 01/4/2000 and she got salary in the said post only from 9/12/2003. This has given rise to the claim made by the petitioner in terms of Ext.P2 which was rejected as per Ext.P5 order dated 26/5/2005, in which it is stated that petitioner was appointed on humanitarian grounds and that she was not entitled for

compassionate appointment as per rules since her husband was working as Santhikkaran in the temple service. However, she was permitted to work in the establishment scheme and later Board had decided to convert her position to the post of LD Clerk w.e.f. 28/11/2003. Hence, the petitioner is not entitled for any claim.

3. Counter affidavit has been filed on behalf of the respondent *inter alia* stating that the petitioner was originally appointed as Compositor in Board Press from 01/4/1980. From 01/4/1984 petitioner's post was changed to Clerical Attender on humanitarian ground as she was not entitled for the benefit of dying in harness scheme. In 1995, the scheme providing employment of assistance to dependents was made applicable to the temple service. Under the said Scheme, which was amended as per order dated 9/7/1998, the female dependents were eligible for appointment under the establishment service of the Board. In fact, the said notification has been cancelled w.e.f. 23/11/2006. During the relevant time, petitioner was posted as Kshethradarsanam Manager w.e.f. 1/7/1989, which post was subsequently converted into establishment service. She was given higher grade on 16/6/1998. On the basis of the request

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made by the petitioner, the Board by order dated 15/3/2002 allowed the petitioner, pay scale and all allowances equivalent to the post of LD Clerk. After that, considering the request of the petitioner, the Board by order dated 28/11/2003 raised the post of Kshethradarsanam Manager to the category of LD Clerk and the petitioner was appointed as LD Clerk in the post with retrospective effect from 1/4/2000. It is therefore clear that the post of Kshethradarsanam Manager, in which she was working, was converted as LD Clerk w.e.f. 01/04/2000. Under such circumstances, it is clear that she was working as a Kshethradarsanam Manager and not as LD Clerk until 28/11/2003. It is only an instance where a post has been converted to that of LD Clerk and that too w.e.f. 01/04/2000 in order to give the petitioner certain benefits like continuity in service, fixation of salary etc.,.

4. The facts now disclosed before this Court clearly indicates that the petitioner was not working in the post of LD Clerk during the period from 01/04/2000 and it is only when the post of Kshethradarsanam Manager being converted to the post of LD Clerk that she could claim to have worked in the said post

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and that too only from the date on which Ext.P1 order has been passed. Under such circumstances, the claim for salary is absolutely unsustainable.

In the result, I do not think that any modification is required to Ext.P1 or Ext.P5 and accordingly, there being no merits in the contentions urged, this writ petition is dismissed.

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp
9/11/2015

//True Copy//

P.S to Judge