

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937

WP(C).No. 14638 of 2008 (P)

PETITIONER(S):

1. **A.MANIKANTAN, WATCHMAN, SIDCO EQUIPMENT
COMPLEX UNIT, MANVILA, THIRUVANANTHAPURAM.**
2. **I.APPU,
WATCHMAN, SIDCO RM DEPOT, MULLAKCAL
ALAPPUZHA, (RETIRED FROM SERVICE).**
3. **R.VENUGOPALAN NAIR,
WATCHMAN, SIDCO EQUIPMENT COMPLEX UNIT, MANVILA
THIRUVANANTHAPURAM.**
4. **T.HUSSARIA,
WATCHMAN, SIDCO TILE FACTORY UNIT, NEYYATTINKARA
THIRUVANANTHAPURAM (RETIRED FROM SERVICE).**
5. **K.SURENDRAN,
WATCHMAN, SIDCO INDUSTRIAL ESTATE, UMayANELLOOR
KOLLAM DIST.**
6. **R.STEPHEN,
PEON, SIDCO, HEAD OFFICE,
HOUSING BOARD BUILDING, THIRUVANANTHAPURAM.**
7. **J.SILVESTER,
WATCHMAN, SIDCO, GOVT.INSTRUMENT WORKSHOP
PAPPANAMCODE, TRIVANDRUM.**
8. **V.SASI,
WATCHMAN, SIDCO, PRESSURE DYE CASTING
PAPPANAMCODE, THIRUVANANTHAPURAM.**
9. **J.RAVEENDRAN,
WATCHMAN, SIDCO SALES EMPORIUM, THIRUVANANTHAPURAM.**
10. **P.YESUDAS,
WATCHMAN, SIDCO GOVT. WOOD WORKSHOP, PAPPANAMCODE
THIRUVANANTHAPURAM.**
11. **J.GEORGE,
WATCHMAN, SIDCO GOVT. WOOD WORKSHOP
PAPPANAMCODE, THIRUVANANTHAPURAM.**
12. **K.VIJAYAKUMAR,
WATCHMAN, SIDCO, INDUSTRIAL ESTATE
PAPPANAMCODE, THIRUVANANTHAPURAM.**

CONTD .. 2 ..

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13. E.JUSTIN,
WATCHMAN, INDUSTRIAL ESTATE, CHANGANASSERY,
KOTTAYAM DISTRICT.
14. B.KUMARADAS,
WATCHMAN, SIDCO, GOVERNMENT WOOD WORKSHOP
PAPPANAMCODE, THIRUVANANTHAPURAM.
15. N.VIJAYAKUMAR,
PEON, HEAD OFFICE, SIDCO
HOUSING BOARD BUILDING, SANTHI NAGAR,
THIRUVANANTHAPURAM.
16. A. MURUKAMMA,
PEON, DYE CASTING UNIT, SIDCO
PAPPANAMCODE, THIRUVANANTHAPURAM.

BY ADVS.SRI.VADAKARA V.V.N.MENON
SRI.T.N.SUKUMARAN

RESPONDENT(S):

1. KERALA SMALL INDUSTRIES DEVELOPMENT
CORPORATION LTD (SIDCO), HOUSING BOARD BUILDING
SANTHI NAGAR, THIRUVANANTHAPURAM, REP.BY ITS MANAGING
DIRECTOR.
2. THE MANAING DIRECTOR,
SIDCO, HOUSING BOARD BUILDING, SANTHI NAGAR
THIRUVANANTHAPURAM.
3. THE MANAGER,
SIDCO TILES, AMARAVILA, NEYYATTINKARA.
4. THE STATE OF KERALA,
REP.BY THE SECRETARY TO GOVERNMENT
INDUSTRIES DEPARTMENT, GOVT. SECRETARIAT
THIRUVANANTHAPURAM.
5. RAJAYYAN, PEON, HEAD OFFICE, SIDCO, HOUSING BOARD
BUILDING, SANTHI NAGAR, THIRUVANANTHAPURAM.(RTD).

R,R1 TO 3 BY ADV. SRI.R.T.PRADEEP
R1 TO 3 BY ADV. SMT.K.K.RAZIYA, SC, SMALL INDUSTRIES DEVP.
CORPN., SIDCO
R BY SRI.R.T.PRADEEP SC FOR R1TO3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 09-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

- EXT. P1: TRUE PHOTO COPY OF PROCEEDINGS NO. PW(5) 12560/90 DT. 30-11-1995 WITH MEMORANDUM OF SETTLEMENT IN 8 PAGES.
- EXT. P2: TRUE PHOTOCOPY OF MEMORANDUM OF SETTLEMENT PREPARED ON THE FINAL DAY OF DISCUSSION DATED 26-11-99 WHICH HAS YET TO BE APPROVED BY THE GOVERNMENT.
- EXT. P3: TRUE COPY OF DETAILED STATEMENT SHOWING THE NAMES OF PETITIONERS WITH THEIR RESPECTIVE ADDRESS, AGE DATE OF ENTER IN SERVICE, TOTAL LENGTH OF SERVICE, DESIGNATION, DATE OF APPOINTMENT ETC.
- EXT. P4: TRUE PHOTO COPY OF PROCEEDINGS NO. PER(1)2487/91 DT. 23-6-98 OF SIDCO.
- EXT. P5: TRUE COPY OF RELIEVING ORDER NO. STA/21/98-99 DTD. 26-6-98 OF THE 3RD RESPONDENT.
- EXT. P6: TRUE COPY OF REPRESENTATION SUBMITTED BY THE PETITIONERS DATED 15-10-2000 TO THE MANAGEMENT OF THE 1ST RESPONDENT.
- EXT. P7: TRUE COPY OF REPRESENTATION DATED 30-10-2000 SUBMITTED BY THE 7TH PETITIONER TO THE 2ND RESPONDENT.
- EXT. P8: TRU COPY OF THE SALARY ADVICE SLIP OF THE 4TH PETITIONER.
- EXT.P9: TRUE PHOTO COPY OF SALARY OF THE 16TH PETITIONER.
- EXT. P10: TRUE COPY OF THE JUDGEMENT DATED 15-3-2006 PASSED BY THIS HON'BLE COURT IN O.P. NO. 3324 OF 2001-U FILED BY THE PETITIONERS.
- EXT. P11: TRUE PHOTOCOPY OF THE REPRESENTATION DATED 27-5-06 SUBMITTED BY THE PETITIONERS INITIALLY BEFORE THE 1ST RESPONDENT AND THEREAFTER TO THE 2ND AND 3RD RESPONDENTS.
- EXT. P12 TRUE COPY OF THE RECEIPT DATED 2-6-2006.
- EXT. P13: TRUE PHOTOCOPY OF THE NOTICE NO. PER/O.P./18923/01 DATED 5-7-2006 SENT BY THE 2ND RESPONDENT.

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- EXT. P14:** TRUE PHOTOCOPY OF THE REPORT DATED 22-10-2007 APPEARED IN THE MATHRUBHOOMI WITH PHOTO OF THE 2ND RESPONDENT.
- EXT. P15:** TRUE COPY OF LETTTER WITH NO. 27998/F2/05/VYAVA, DATED 27-3-2006 SENT BY THE PRINCIPAL SECRETARY, INDUSTRIES DEPARTMENT OF THE STATE GOVERNMENT TO THE MANAGING DIRECTOR, S.I.D.C.O.
- EXT. P16:** TRUE PHOTOCOPY OF THE LETTER DATED 6-6-2006 WITH NO. 27998/F2/05/VYAVA SENT BY THE PRINCIPAL SECRETARY, INDUSTRIES DEPARTMENT OF THE STATE GOVERNMENT TO THE MANAGING DIRECTOR,S.I.D.C.O.
- EXT. P17:** TRUE PHOTOCOPY OF THE LETTER DATED 9-8-2006 WITH NO. 27998/F2/05/VYAVA SENT BY THE PRINCIPAL SECRETARY, INDUSTRIES DEPARTMENT OF THE STATE GOVERNMENT TO THE MANAGING DIRECTOR,S.I.D.C.O.
- EXT. P18:** TRUE PHOTOCOPY OF THE LETTTER DATED 1-11-2006 WITH NO. 27998/F2/05/VYAVA SENT BY THE PRINCIPAL SECRETARY, INDUSTRIES DEPARTMENT OF THE STATE GOVERNMENT TO THE MANAGING DIRECTOR,S.I.D.C.O.
- EXT. P19:** TRUE PHOTOCOPY OF THE LETTTER DATED 21-2-2007 WITH NO. 27998/F2/05/VYAVA SENT BY THE PRINCIPAL SECRETARY, INDUSTRIES DEPARTMENT OF THE STATE GOVERNMENT TO THE MANAGING DIRECTOR,S.I.D.C.O.
- EXT. P20:** TRUE PHOTOCOPY OF THE ORDER DATED 17-8-06, NO. PER/O.P./18923/01 PASSED BY THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS : NIL

/TRUE COPY/

PA. TO JUDGE

SB

K. VINOD CHANDRAN, J.

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Dated this the 9th day of September, 2015

J U D G M E N T

The petitioners challenge Ext.P20 order of the 2nd respondent and seek regularisation of the appointment of the petitioners to the post of watchman/peon. The petitioners also pray for the benefits of regularisation from their date of appointment. The petitioners claim that they are regularly appointed employees of SIDCO Tile Factory, Amaravila in the category of workers and they are entitled to be promoted to the post of watchman/peon in the respondent Corporation. The petitioners were appointed as per Ext.P4 order.

2. A reading of Ext.P4 would belie the contention of the petitioners. The Tile Factory at Amaravila under the respondent Corporation was not performing satisfactorily and

the steps taken to revive the same also did not fructify. The unit having been closed down, the employees of the Unit were given option to be engaged as watchman/peon in the respondent Corporation. The said engagement even as per Ext.P4 proceedings was on work arrangement and they were held to be entitled to all benefits they were eligible for, had they been in the services of the SIDCO Tiles at Amaravila. The workmen who opted for the same is said to have agreed to such working arrangement on the pay scales and benefits available to them as workers of the Tile Factory. The above measure was taken in mitigation of the fact that on the closure of the Tile Factory, the workers would be rendered jobless.

3. The petitioners were earlier before this Court claiming that they were discriminated insofar as the 5th respondent had been promoted to the post of watchman/peon. This Court directed consideration of the claim made by the

petitioners, which was considered by Ext.P20. Ext.P20 is an order dated 17.08.2006 and the same was challenged in the instant writ petition of 2008. This Court had directed the respondent Corporation to file an affidavit as to whether the directions in Ext.P10 as to the communication of the order, were complied with. The specific query was with respect to service of notice on the 1st petitioner and the 2nd petitioner.

4. The respondent Corporation has filed a statement enclosing the copy of Ext.P20, which was served on the 1st petitioner and the copy of the postal acknowledgment evidencing service on the 2nd respondent. In such circumstance, the writ petition has to be found to be grossly delayed.

5. Further, those workers who were promoted as watchman/peon stand on a different footing, since the petitioners were engaged as watchman/peon by virtue of a specific work arrangement with the management. The

petitioners at the time of their appointment had agreed to such work arrangement as watchman/peon but however on the benefits applicable to them if they were continued as workers in the Tile Factory.

In such circumstance, the claim of discrimination cannot be sustained. The contentions of the petitioners are found to be devoid of merit and the writ petition is also grossly delayed. For both the reasons, the writ petition would stand dismissed. No costs.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge.