

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WP(C).No. 11553 of 2014 (T)

PETITIONER :

**N.SANTHOSH PHILIP, AGED 50 YEARS,
S/O. LATE N.P.CHACKO, JUNIOR SUPERINTENDENT,
P.H. DIVISION, KERALA WATER AUTHORITY,
KOTTAYAM. (RESIDING AT NANTHICKATTU HOUSE,
MOOLAVATTOM P.O., KOTTAYAM).**

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF WATER RESOURCES,
KERALA GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. KERALA WATER AUTHORITY,
REPRESENTED BY ITS MANAGING DIRECTOR,
JALA BHAVAN, THIRUVANANTHAPURAM-695 001.**
- 3. THE MANAGING DIRECTOR,
KERALA WATER AUTHORITY, JALA BHAVAN,
THIRUVANANTHAPURAM-695 001.**
- 4. KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY ITS SECRETARY,
KERALA PUBLIC SERVICE COMMISSION OFFICE, PATTAM,
THIRUVANANTHAPURAM-695 004.**
- 5. DIRECTOR,
VIGILANCE AND ANTICORRUPTION BUREAU,
KERALA WATER AUTHORITY, THIRUVANANTHAPURAM-695 001.**
- 6. O.MANJU,
JUNIOR SUPERINTENDENT, HEAD OFFICE,
KERALA WATER AUTHORITY, THIRUVANANTHAPURAM-695 001.**
- 7. S.K.SHAMEEM,
JUNIOR SUPERINTENDENT, P.H DIVISION,
KERALA WATER AUTHORITY, SHORNUR-679 121.**

WP(C).NO.11553/2014

- *8. SAJU S.,
JUNIOR SUPERINTENDENT, JNNURM,
KERALA WATER AUTHORITY, KOCHI-682 016. (CORRECTED)
- *SAJU.S., DIVISIONAL ACCOUNTS OFFICER,
WATER SUPPLY DIVISION, KERALA WATER AUTHORITY, KOCHI.
- *THE ADDRESS OF THE R8 IS CORRECTED AS PER ORDER IN
IA.NO.11336/2014 DATED 22/08/2014.
9. K.R.VENUGOPALAN,
JUNIOR SUPERINTENDENT, PROJECT DIVISION,
KERALA WATER AUTHORITY, KOTTAYAM-686 001.
10. SAJI BABU N.,
JUNIOR SUPERINTENDENT, P.H CIRCLE,
KERALA WATER AUTHORITY, MOOVATTUPUZHA-686 661.
11. E.ASHRAF,
JUNIOR SUPERINTENDENT, WATER SUPPLY SUB DIVISION,
KERALA WATER AUTHORITY, THALASSERY-670 101.
12. S.SUBHASH KUMAR,
JUNIOR SUPERINTENDENT, WASCON,
KERALA WATER AUTHORITY,
THIRUVANANTHAPURAM-695 001.
13. K.V.JAYAPAL,JUNIOR SUPERINTENDENT,
WATER SUPPLY PROJECT SUB DIVISION,
KERALA WATER AUTHORITY, KASARAGOD-671 121.
14. K.VIKRAMAN,
JUNIOR SUPERINTENDENT, P.H DIVISION,
KERALA WATER AUTHORITY, THIRUVANANTHAPURAM-695 001.
15. P.D.GEETHA,
JUNIOR SUPERINTENDENT, UIDSSMT PROJECT DIVISION,
KERALA WATER AUTHORITY, ALAPPUZHA-688 001.
16. V.P.SUJATHA,
JUNIOR SUPERINTENDENT, WATER SUPPLY SUB DIVISION,
KERALA WATER AUTHORITY, KOLLAM-691 001.
17. P.THOMAS KURIAN,
JUNIOR SUPERINTENDENT, HEAD OFFICE,
KERALA WATER AUTHORITY, THIRUVANANTHAPURAM-695 001.
18. P.A.SAIBIYA,
JUNIOR SUPERINTENDENT, P.H DIVISION,
KERALA WATER AUTHORITY, ALAPPUZHA-688 001.
19. SUSAMMA THOMAS,
JUNIOR SUPERINTENDENT, P.H DIVISION,
KERALA WATER AUTHORITY, THIRUVALLA-689 101.

WP(C).NO.11553/2014

20. G.VINOD,
JUNIOR SUPERINTENDENT, SEWERAGE DIVISION,
KERALA WATER AUTHORITY, PATTOOR-695 011.

21. S.BIJU,
JUNIOR SUPERINTENDENT, HEAD OFFICE,
KERALA WATER AUTHORITY, THIRUVANANTHAPURAM-695 001.

22. A.P.K.BALAKRISHNAN,
JUNIOR SUPERINTENDENT, WS DIVISION,
KERALA WATER AUTHORITY, KANNUR-670 001.

*23. P.C.CHITHRA,
JUNIOR SUPERINTENDENT, WATER SUPPLY SUB DIVISION,
KERALA WATER AUTHORITY, KANNUR-670 001. (CORRECTED)

*THE ADDRESS OF THE R23 IS CORRECTED AS PER ORDER IN
IA.NO.11336/2014 DATED 22/08/2014

*24. AMBILLI KUMAR S.,
JUNIOR SUPERINTENDENT, JNNURM PROJECT CIRCLE,
KERALA WATER AUTHORITY, KURIATHY-695 009. (CORRECTED)

*AMBILI KUMAR.S., DIVISIONAL ACCOUNTS OFFICER,
P.H.DIVISION, KERALA WATER AUTHORITY, SULTHAN BATHERY.

*THE ADDRESS OF THE R24 IS CORRECTED AS PER ORDER IN
IA.NO.11336/2014 DATED 22/08/2014

25. JOSE KURIAN,
JUNIOR SUPERINTENDENT, CE'S OFFICE, NR,
KERALA WATER AUTHORITY, KOZHIKODE-673 001.

26. GEORGE NELSON P.A.,
JUNIOR SUPERINTENDENT, P.H.DIVISION,
KERALA WATER AUTHORITY, IRINJALAKUDA-680 121.

R1 BY GOVERNMENT PLEADER SMT. A.LOWSY
R2 & R3,R5 BY SRI.JOSEPH JOHN, SC, KERALA WATER AUTHORITY
R4 BY SRI.P.C.SASIDHARAN, SC, KPSC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

WP(C).No. 11553 of 2014 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : COPY OF THE JUDGMENT IN WPC NO.14854/13 DTD. 12.6.2013.**
- P2 : COPY OF FIR NO.1/2004 OF VACB, E/R POLICE STATION DTD. 23.4.2004.**
- P3 : COPY OF FINAL REPORT IN VC 1/04/ERK DTD. 7.8.2013 FILED BEFORE COURT OF ENQUIRY COMMISSIONER AND SPECIAL JUDGE(VIGILANCE), KOTTAYAM.**
- P4 : COPY OF MINUTES OF DEPARTMENTAL PROMOTION COMMITTEE (MINISTERIAL LOWER) OF KERALA WATER AUTHORITY, DTD. 24.2.2014.**
- P5 : COPY OF THE REPRESENTATION DTD. 21.4.2014 SUBMITTED BY THE PETITIONER BEFORE 3RD RESPONDENT ON 22.4.2014.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.MUHAMED MUSTAQUE, J.
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W.P(C).No.11553 of 2014
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Dated this the 13th day of January, 2015

JUDGMENT

Petitioner is working as Junior Superintendent under the Kerala Water Authority. Petitioner submits that he is eligible to be promoted as Divisional Accountant. Petitioner further submits that he is serial number No.7 in the seniority list of Junior Superintendents. Petitioner's grievance is that his juniors are already been appointed based on Departmental Promotion Committee decision on 26.03.2013. Petitioner was not considered for promotion on account of pendency of vigilance enquiry. Thereafter, a subsequent DPC was convened as per Annexure P4. The Departmental Promotion Committee reiterated the same reason. It is stated that DPC superseded petitioner 's promotion due to pendency of the vigilance case.

2. Petitioner submits that after the Departmental Promotion Committee decision on 26.03.2013, vigilance department concluded the proceedings initiated against the petitioner. Petitioner relies on Ext.P3 final report. In the report, it is stated as follows:

“Director, Vigilance and Anti-Corruption

Bureau, Thiruvananthapuram has decided to recommend departmental disciplinary action against accused 1 and accused 2, no action against accused 3 and accused 4 and issued direction to file final report to the effect as per letter No.C6 (VC01/2004/ERK) 13764/2004 dtd 18-7-2013 and hence this final report of the case as Further Action dropped.

Hence it is humbly prayed that this Hon'ble Court may be pleased to accept this final report and treat the case as further action dropped."

It is further observed in the above report that departmental enquiry need be initiated against the petitioner. The DPC, however, superseded the petitioner's promotion finding that there is pendency of vigilance case. Petitioner submits that there was no vigilance enquiry pending against the petitioner as on the date of meeting of Departmental Promotion Committee on 24.02.2014,. Ext.P3 proceeding was concluded before Departmental Promotion Committee held on 24.02.2014 which is resulted in Ext.P4. Ext.P3 final report, exonerating the petitioner from misappropriation due to lack of primary evidence, is dated 07.08.2013. It is also need to be noted that no departmental proceedings are initiated against the petitioner. The petitioner already moved department by Ext.P5.

3. In view of the above, I am of the view that the

decision of the DPC in Ext.P4 is liable to be set aside. Accordingly it is set aside. There shall be a direction to the third respondent to take appropriate action based on Ext.P5. Consequently, petitioner shall be considered for promotion based on his seniority for the post without any delay. If fresh DPC is required, that shall be convened within a period of six weeks. Entire exercise shall be completed within a further period of six weeks.

The Writ Petition is disposed of.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

Sbna/14/01/15