

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

W.P.(C).No. 15638 of 2009 (Y)

PETITIONER(S):

1. PAVANAN.C.P., ANCHORMAN/DIVER,
DREDGER DEPARTMENT, TRAVANCORE CEMENTS LTD.
2. PONNACHAN.K.V., ANCHORMAN/DIVER,
DREDGER DEPARTMENT, TRAVANCORE CEMENTS LTD.

BY ADV. SMT.I.SHEELA DEVI

RESPONDENT(S):

1. TRAVANCORE CEMENTS LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR, NATTAKOM P.O.,
KOTTAYAM.
2. NAVAS.P.P., GENERAL HELPER NOW
PROMOTED TO MACHINE OPERATOR GRADE-II,
TRAVANCORE CEMENTS LTD., NATTAKOM P.O., KOTTAYAM.
3. BIJU.C.C., GENERAL HELPER NOW
PROMOTED TO MACHINE OPERATOR GRADE-II,
TRAVANCORE CEMENTS LTD., NATTAKOM P.O., KOTTAYAM.

R1 BY ADV. SRI.P.K.VIJAYAMOHANAN,SC,TRAVANCORE CEMENTS LTD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13-11-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.T.O.

APPENDIX

PETITIONERS' EXHIBITS:

- EXHIBIT P1 TRUE COPY OF THE DRAFT PROVISIONAL PROMOTION POLICY MANAGEMENT AND THE TRADE UNION.
- EXHIBIT P2 TRUE COPY OF THE OFFICE ORDER NO.0916 DATED 07.06.2008 BEFORE THE 1ST RESPONDENT.
- EXHIBIT P2(A) TRUE COPY OF THE SENIORITY LIST OF ANCHORMAN/DIVER.
- EXHIBIT P3 TRUE COPY OF THE ORDER NO.0082 DATED 25.2.2009 ISSUED BY THE CHIEF MANAGER (M AND P) TO THE 1ST PETITIONER.
- EXHIBIT P3(A) TRUE COPY OF THE ORDER NO.0085 DATED 25.2.2009 ISSUED BY THE CHIEF MANAGER (M AND P) TO THE 2ND PETITIONER.
- EXHIBIT P4 TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 2.6.2009.
- EXHIBIT P4(A) TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 2ND PETITIONER BEFORE THE 1ST RESPONDENT DATED 2.6.2009.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

St/-

SHAJI P. CHALY, J.

W.P.(C)No.15638 of 2009

Dated this the 13th day of November, 2015

JUDGMENT

This writ petition is filed by the petitioners seeking direction to the 1st Respondent to promote the petitioners as Machine Operator Grade-II with immediate effect. It is contended by the petitioners that as per the seniority, they are entitled to be posted in preference to Respondents 2 and 3. Even though notice was served on Respondents 2 and 3, there is no appearance.

2. Heard learned counsel for the petitioners as well as the learned Standing Counsel for the 1st Respondent.

3. 1st Respondent has filed a counter affidavit disputing the statements and allegations contained in the writ petition, however, contended that the petitioners are entitled to the order of seniority as provided under Ext.P2 list of employees maintained by the 1st Respondent. It is also contended that in accordance with the promotion policy, the petitioners are already promoted as Machine Operators Grade-

II and after the filing of the writ petition, the 1st petitioner was promoted as Machine Operator Grade-I. It is also stated in the counter affidavit that 1st Respondent will maintain the order of seniority as maintained by the 1st Respondent and at no point of time the seniority is violated. It is also contended that the petitioners continue as Anchorman/Diver in terms of the agreement entered into by the 1st Respondent with its employees. However, their promotion to the superior posts are not affected, even if they continue in the posts as held by them. It is also contended that the 1st Respondent has no manner of intention to overlook the seniority maintained in the list. The learned Standing Counsel for the 1st Respondent reiterated the contentions in the counter affidavit when the matter was heard today.

4. Therefore, I am inclined to think that 1st Respondent will maintain the order of seniority contained in Ext.P2. The submission of the learned Standing Counsel for the 1st Respondent is recorded and this writ petition is disposed of with a direction that the seniority of the petitioners as well as others contained as per Ext.P2 will be maintained for promotion.

The writ petition is disposed of accordingly.

Sd/-
SHAJI P. CHALY
JUDGE

//true copy//

P.S. to Judge

St/-
13.11.2015