

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE

FRIDAY, THE 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

WP(C).No. 11759 of 2015 (S)

PETITIONER :

M.SANJEEVAN, AGED 55 YEARS
S/O. MADHAVAN, ROOM NO.54, ANANTHAPURI AUDITORIUM
JAGATHI.P.O., THIRUVANANTHAPURAM
WORKING AS JOINT SECRETARY TO GOVERNMENT
LAW DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM.

BY ADVS.SRI.BABU KARUKAPADATH
SMT.M.A.VAHEEDA BABU
SRI.K.A.NOUSHAD
SRI.P.U.VINOD KUMAR
SRI.KANDAMPULLY RAHUL
SRI.MITHUN BABY JOHN
SRI.J.RAMKUMAR

RESPONDENT :

STATE OF KERALA
REPRESENTED BY ITS CHIEF SECRETARY
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

BY SPL.GOVERNMENT PLEADER, SMT. GIRIJA GOPAL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
22-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1. A TRUE COPY OF THE GOVERNMENT ORDER DATED 2-8-2005 ENTRUSTING THE PETITIONER WITH THE WORK OF STUDYING THE PROBLEMS OF TEA ESTATE WORKERS.
- EXT.P2. A TRUE COPY OF THE LETTER DATED 10-12-2014 ISSUED ON BEHALF OF THE ADDITIONAL CHIEF SECRETARY TO THE GOVERNMENT ALONG WITH THE MINUTES OF THE MEETING PURSUANT TO THE PROPSAL SUBMITTED BY THE PETITIONER FOR ALLEVIATING THE AGONY OF HEAD LOAD FISH VENDING WOMEN.
- EXT.P3. TRUE COPIES OF THE RELEVANT TABLES PUBLISHED IN KERALA'S DEMOGRAPHIC FUTURE PUBLISHED UNDER THE AUSPICIOUS OF CENTRE FOR DEVELOPMENT STUDIES, THIRUVANANTHAPURAM, A STATE GOVERNMENT UNDERTAKING FOR THE PURPOSE OF DEVELOPMENTAL STUDIES.
- EXT.P4. A TRUE COPY OF THE RELEVANT TABLE PUBLISHED IN KERALA'S DEMOGRAPHIC FUTURE PUBLISHED UNDER THE AUSPICIOUS OF CENTRE FOR DEVELOPMENT STUDIES, THIRUVANANTHAPURAM.
- EXT.P5. A TRUE COPY OF THE RELEVANT TABLE PUBLISHED IN KERALA'S DEMOGRAPHIC FUTURE REGARDING PENSION PAYMENTS OF STATES AS PERCENT OF REVENUE RECEIPTS PUBLISHED UNDER THE AUSPICIOUS OF CENTRE FOR DEVELOPMENT STUDIES, THIRUVANANTHAPURAM.
- EXT.P6. A TRUE COPY OF RELEVANT PORTION OF CHAPTER IV TITLED AS KERALATHINTE VIKASANA PRATHISANTHI (DEVELOPMENTAL CRISIS IN KERALA) BY THE FORMER FINANCE MINISTER OF KERALA MR. (DR) THOMAS ISSAC.
- EXT.P6A. A TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT-P6.
- EXT.P7. A TRUE COPY OF THE RELEVANT PORTION OF THE 39TH REPORT OF THE PARLIAMENTARY STANDING COMMITTEE ON SOCIAL JUSTICE AND EMPLOYMENT.
- EXT.P8. A TRUE COPY OF THE BILL AMEND ANDHRA PRADESH PUBLIC EMPLOYMENT (REGULATION OF AGE OF SUPERANNUATION) ACT, 1984.
- EXT.P9. A TRUE COPY OF THE ANDHRA PRADESH PUBLIC EMPLOYMENT (REGULATION OF AGE OF SUPERANNUATION) (AMENDMENT) ACT, 2014.
- EXT.P10. A TRUE COPY OF THE ORDER NO. PEN 104/2014 19408/F BHUVANESHWAR DATED 28-6-2014.

WP(C).No. 11759 of 2015 (S)

EXT.P11. A TRUE COPY OF THE REPRESENTATION DATED 28-2-2015 SUBMITTED
BY THE PETITIONER EXCLUDING CERTAIN ANNEXURES.

EXT.P12. A TRUE COPY OF THE PAPER REPORT IN INDIAN EXPRESS DAILY DATED.

RESPONDENTS' EXHIBITS :

NIL

/TRUE COPY/

PA TO JUDGE

**ASHOK BHUSHAN, CJ
&
A.M.SHAFFIQUE, J**

W.P(C).No.11759 of 2015

Dated this the 22nd May, 2015

JUDGMENT

Ashok Bhushan, CJ.

Heard learned counsel for the petitioner.

2. This Writ Petition filed as a public interest litigation seeks the following reliefs:

- “a) Declare that the retirement of the government servants at an early age of below 60 years is detrimental to the financial interest of the state and also against the interest of the society and the country at large and direct the state to take a decision on the retirement age of the state government servants on the said basis;*
- b) Issue a writ of mandamus or other appropriate writ, order or direction commanding the respondent to enhance the retirement age of the government servants atleast to 60 years.*

- c) *Direct the respondent to consider the requirement of enhancement of retirement age of the government servants atleast to 60 years.*
- d) *Direct the respondent to consider and dispose off Exhibit P11 representation submitted by the petitioner."*

3. The petitioner claims to be a public spirited person engaged in many socio economic researches as part of his social commitment. He in this Writ Petition has come up with the case that the age of retirement in the State of Kerala has been fixed as 55 years decades ago and only for the last two years it was increased to 56 years. The petitioner has brought on record various documents including the studies undertaken by the State and the Central Government under the auspicious of the Centre for Development Studies. Exhibit P4 report has been brought on record, where expectation of life in different States, both for males and females, has been mentioned for the year 2006-2010. It is submitted that the life expectancy in the State of Kerala is the highest being 72

for males and 77 for females. He submits that the retirement age being lower in the State of Kerala, a substantial amount of finances of the State, i.e., about 23% is utilised for payment of pension to huge number of retired employees. He submits that it is the constitutional obligation of the State to utilise its finances to subserve the common good. He further submits that in the State of Andhra Pradesh, legislation of the Act has already been enacted, where the age of retirement has been increased from 58 to 60 years by the amendment brought in the year 1984. He submits that the Central Government has also increased the age of superannuation to 60 years and the Central Government employees are working till the age of 60 years. The petitioner has also brought on record Exhibit P7 39th Report of the Parliamentary Standing Committee on Social Justice and Empowerment, where recommendation was made regarding the increase of retirement age of the State Government employees.

4. The petitioner's case is that he has submitted various representations along with the relevant reports and records to the Government, i.e., Exhibit P11. But, no action has been taken on the said representation, though detailed facts and figures were brought on the said representation. He has referred to Exhibit P12 statement published in a newspaper regarding the retirement age of the State Government employees.

5. We have considered the submissions of learned counsel for the petitioner and perused the records. What the petitioner has raised regarding the retirement age of the State Government employees is an issue, which is in the domain of the State Government. It is for the State Government to consider all the aspects of the matter and take a decision in that regard. The State Government is free to take its policy decision regarding the age of retirement. This Court in exercising its jurisdiction cannot declare a particular age of retirement of the Government employees, nor can issue a writ of mandamus to increase

the age of retirement to 60 years as prayed for in the Writ Petition. It is for the Government to consider and take appropriate decision. The Government is free to consider all the aspects of the matter and take appropriate decision. The petitioner has already submitted a representation and it is for the Government to consider and take appropriate decision.

With the above observation, the Writ Petition is closed.

**Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE**

**Sd/-
A.M.SHAFFIQUE
JUDGE**

vgs22/5/15