

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937

WP(C).No. 17767 of 2012 (U)

PETITIONER:

**P.R.SHAJI, AGED 57 YEARS
S/O.PANKAJAKSHAN, ASSISTANT GRADE I, WAREHOUSE
KERALA STATE BEVERAGES (MANUFACTURING AND
MARKETING) CORPORATION LTD.
NEDUMANGAD, THIRUVANANTHAPURAM.**

**BY ADVS.SRI.N.R.SURESH KUMAR
SRI.S.JIJI**

RESPONDENTS:

- 1. KERALA STATE BEVERAGES (MANUFACTURING AND
MARKETING) CORPORATION LTD.
P.B.NO.2263, SASTHAKRIPA OFFICE COMPLEX
SASTHAMANGALAM, THIRUVANANTHAPURAM, PIN-695 010
REPRESENTED BY ITS MANAGING DIRECTOR**
- 2. THE MANAGING DIRECTOR
KERALA STATE BEVERAGES (MANUFACTURING AND
ARKETING) CORPORATION LTD.
P.B.NO.2263, SASTHAKRIPA OFFICE COMPLEX
SASTHAMANGALAM, THIRUVANANTHAPURAM, PIN-695 010.**
- 3. MEENAKUMARI.T.
ASSISTANT MANAGER, (SALARY II), ABKARI CELL
KERALA STATE BEVERAGES (MANUFACTURING AND
ARKETING) CORPORATION LTD.
HEAD OFFICE, THIRUVANANTHAPURAM, PIN-695 010.**

R1-R2 BY ADV. SRI.C.S.AJITH PRAKASH,SC,BEVERAGES CORP

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1 - COPY OF THE DRAFT SENIORITY LIST AS ON 31.12.2010 PREPARED BY THE 2ND RESPONDENT.
- EXHIBIT P2 - COPY OF INTERNAL MEMO DATED 04.02.2011.
- EXHIBIT P3 - COPY OF THE PROCEEDINGS NO.AE1/04/2011/KSBC DATED 07.02.2011 OF THE 2ND RESPONDENT.
- EXHIBIT P4 - COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- EXHIBIT P5 - COPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT DATED 10.02.2012.
- EXHIBIT P6 - COPY OF OFFICE ORDER DATED 15.02.2012 OF THE MANAGER, WAREHOUSE, NEDUMANGAD.
- EXHIBIT P7 - COPY OF THE JUDGMENT DATED 11.04.2012 IN WP(C) NO.6047/2010 OF THIS COURT.
- EXHIBIT P8 - COPY OF THE ORDER NO.4964/2012/AE1/KSBC DATED 30.05.2012 OF THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS:- NIL

//TRUE COPY//

P.A. TO JUDGE

sp

K. VINOD CHANDRAN, J.

W.P(C). No.17767 of 2012

Dated this the 27th day of October, 2015.

JUDGMENT

The petitioner challenges the denial of promotion. Admittedly, the petitioner has retired in the year 2013, while the above writ petition was pending. The allegation on which the petition was filed is that despite his seniority in Ext.P1, he was not considered to the post of Assistant Manager/Accountant.

2. The petitioner was working as Assistant Grade-I, in which cadre the draft seniority list as per Ext.P1 was prepared. The petitioner was shown as serial No.35 in the said list. The select list at Ext.P2 was prepared for promotion to the post of Assistant Manager/Accountant. Ext.P2 select list contained only 33 persons and six of them were petitioner's juniors. The petitioner's exclusion is said to be on account of a pending disciplinary proceeding.

3. It is submitted by the learned Standing Counsel for the respondent that the petitioner was not included in the select list, since the petitioner had suffered a punishment imposed pursuant to a disciplinary enquiry. In any event the petitioner filed a representation at Ext.P4. For consideration of which, the above writ petition was filed. It is to be noticed that the writ petition itself was filed after the petitioner was promoted as per Ext.P5 and the later reversion of the petitioner. The petitioner obviously did not challenge the select list issued as early as on 04.02.2011. The petitioner slept over his rights and moved a representation after 9 months on 10.11.2011 as is indicated at Ext.P4. The petitioner was then promoted to the post of Assistant Manager by Ext.P5 on 10.02.2012 and later was reverted by Ext.P8 order dated 30.05.2012, when there was an enhancement of retirement age and some persons, who had left the Corporation, had joined back on orders of this Court.

4. The reversion made of the petitioner was on account of the fact that the petitioner was the junior most among the Assistant Manager/Accountant. It was at this juncture that the

petitioner though it fit to challenge the select list issued at Ext.P2. This Court is of the opinion that the challenge itself was grossly delayed. Further, it is to be noticed that the petitioner had now retired from service and hence there could be no question of any relief of even notional promotion to the petitioner.

The writ petition hence would stand dismissed for all the above reasons.

Sd/-

**K. VINOD CHANDRAN,
JUDGE**

//True Copy//

P.A. to Judge.

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