

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 19TH DAY OF JUNE 2015/29TH JYAISHTA, 1937

WP(C).No. 14041 of 2015 (E)

PETITIONER(S)/PETITIONER:

**LEELAMONY S.
W/O.LATE PRATHAPAN, SWEEPER, KERALA FEEDS LIMITED
EDAKULANGARA, KARUNAGAPPALLY, KOLLAM
RESIDING AT PRAVEEN BHAVANAM, ANKOTTOR.P.O
KOTTARAKKARA, KOLLAM.**

BY ADV. SRI.B.MOHANLAL

RESPONDENT(S)/RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
ANIMAL HUSBANDRY DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM.695001**
 - 2. THE KERALA FEEDS LIMITED,
GOVERNMENT OF KERALA UNDERTAKING COMPANY
REGISTERED AND CORPORATE OFFICE KALLEETTUMKARA
THRISSUR-680683
REPRESENTED BY ITS MANAGING DIRECTOR.**
 - 3. THE ASSISTANT MANAGER,
KERALA FEEDS LIMITED, EDAKULANGARA.P.O, KARUNAGAPPALLY
KOLLAM-690562.**
- R2 & 3 BY SRI.MILLU DANDAPANI, SC, MEAT PRODUCTS OF INDIA LTD.
R BY GOVERNMENT PLEADER SMT.LOWSY.A.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
19-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: THE TRUE COPY OF THE DEATH CERTIFICATE OF THE PETITIONER'S HUSBAND ISSUED BY THE REGISTRAR OF BIRTH AND DEATH,CORPORATION OF THIRUVANANTHAPURAM

EXT.P2: THE TRUE COPY OF THE CERTIFICATE NO:3873/11 DATED 25/08/2011 ISSUED BY THE VILLAGE OFFICER,NEDUVATHOOR TO THE PETITIONER

EXT.P3: THE TRUE COPY OF THE COMMUNICATION NO:KFL/KNPY/157/13/317/14 DATED 12/04/2014 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER

EXT.P4: THE TRUE COPY OF THE APPOINTMENT ORDER NO:KFL/KNPY/157/13/317/14 DATED 09/06/2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER

EXT.P5: THE TRUE COPY OF THE APPLICATION DATED 25/04/2015 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENTS 2 AND 3

EXT.P6: THE TRUE COPY OF THE G.O.(P)NO.412/11/FIN.DATED 30/09/2011 ISSUED BY THE GOVERNMENT.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.14041 OF 2015 (E)

Dated this the 19th day of June, 2015

J U D G M E N T

The petitioner, who is a widow and belongs to the BPL category, was appointed as Sweeper on contract basis by the 2nd respondent company, through Ext.P4 appointment order. A perusal of Ext.P4 order clearly reveals the engagement of the petitioner to be a temporary engagement as Sweeper on contract basis. The said order also makes it clear that the engagement was for a period not exceeding one year. In the writ petition, the claim of the petitioner is essentially for regularization in service. The petitioner would point out that, inasmuch as her appointment on temporary basis was through the sponsorship of the Employment Exchange, and the Special Rules governing Last Grade Servants, which is applicable to the 2nd respondent company, also contemplates an appointment through Employment Exchange, there was no irregularity in the mode of appointment even though the appointment was only on a temporary basis. It is on this contention that the petitioner premises her claim for regularization.

2. A counter affidavit has been filed by respondents 2 and 3 wherein it is stated that the petitioner does not have any right to claim regularization in the services of the 2nd respondent company. It is in particular pointed out that, the terms of engagement of the petitioner were clearly disclosed in Ext.P4 order and the petitioner cannot claim a right that goes beyond the said order. It is stated that, taking note of the case projected by the petitioner, the respondents had chosen not to terminate her service even prior to the expiry of the one year period for which she was appointed by Ext.P4 order, notwithstanding that the terms of Ext.P4 appointment order clearly enabled the 2nd respondent to do so, on furnishing adequate reasons. Some decisions of the Supreme Court are also relied upon to contend that the petitioner cannot have any claim for regularization.

3. I have heard the learned counsel for the petitioner, the learned Government Pleader for the 1st respondent as also the learned senior counsel for respondent 2 and 3.

4. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that the claim of

the petitioner for regularization, based on the service that was commenced pursuant to Ext.P4 order of appointment, cannot be legally sustained. The criteria spelt out through the various decisions of the Supreme Court, for regularisation of service of a casual employee, is not seen satisfied in the instant case. Counsel for the petitioner, however, submits that by Ext.P5 representation, the petitioner has approached the 2nd respondent even before the expiry of the period indicated in Ext.P4 order, with a claim for re-engagement on casual basis. Faced with the situation where this Court is not inclined to accept her claim for regularization, it is submitted that the petitioner would be satisfied with a direction to the 2nd respondent to consider and pass orders on Ext.P5 representation, preferred by the petitioner, within a period of two weeks from the date of receipt of a copy of this judgment, with an incidental direction to permit the petitioner to continue in service till such time as orders are so passed. Taking note of the last submission of counsel for the petitioner, I dispose the writ petition with a direction to the 2nd respondent to consider and pass orders on Ext.P5 representation preferred by the petitioner within a period of two weeks from today, after hearing the petitioner. I make it clear that till such time as

orders are passed by the 2nd respondent as directed, and communicated to the petitioner, the petitioner shall be permitted to remain in service as a sweeper on contract basis.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp