

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

WP(C).No.15068 of 2015 (G)

PETITIONERS :

1. SURAJ.M.R.,
TECHNICAL ASSISTANT,
KERALA AGRO MACHINERY CORPORATION LTD.,
KALAMASSERY UNIT, I.D.PLOT P.O., SOUTH KALAMASSERY,
ERNAKULAM DISTRICT, PIN-683 109.
2. VILENDRA A.K.,
TECHNICAL ASSISTANT,
KERALA AGRO MACHINERY CORPORATION LTD.,
ATHANI UNIT, ATHANI P.O., ERNAKULAM DISTRICT-683 585.
3. KAMCO EMPLOYEES FEDERATION (AITUC),
REG.NO.359/1982, REPRESENTED BY ITS SECRETARY,
S.RAMESAN, ATHANI P.O., PIN-683 585.

BY ADVS.SRI.ASOK M.CHERIAN
SRI.T.R.RENJITH
SRI.R.ROHITH
SRI.K.JANARDHANA SHENOY
SRI.V.K.PRASAD

RESPONDENTS :

1. THE KERALA AGRO MACHINERY CORPORATION LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR, ATHANI P.O.,
ERNAKULAM DISTRICT-683 585.
2. THE DEPUTY GENERAL MANAGER (HR),
THE KERALA AGRO MACHINERY CORPORATION LTD, ATHANI P.O.,
ERNAKULAM DISTRICT-683 585.
3. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT OF KERALA,
DEPARTMENT OF AGRICULTURE, SECRETARIAT,
THIRUVANANTHAPURAM.

R1&2 BY SC- SRI.M.GOPIKRISHNAN NAMBIAR
R1&2 BY ADV. SRI.P.GOPINATH
R1&2 BY ADV. SRI.P.BENNY THOMAS
R1&2 BY ADV. SRI.K.JOHN MATHAI
R1&2 BY ADV. SRI.JOSON MANAVALAN
R1&2 BY ADV. SRI.KURRYAN THOMAS
BY GOVERNMENT PLEADER SRI.P.V.ELIAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
21-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS :-

- P1- A TRUE COPY OF THE SPECIAL RULES FOR RECRUITMENT AND PROMOTION OF MANAGERIAL AND SUPERVISORY EMPLOYEES UNDER THE KAMC EMPLOYEES STAFF BYE-LAWS 1973 AS APPROVED BY THE DIRECTOR BORAD OF THE 1ST RESPONDENT IN ITS MEETING HELD ON 27/11/1984.
- P2- A TRUE COPY OF THE OFFICE ORDER NO.3/91 DATED 22/6/1991 BRINING IN FORCE THE DECISION OF THE BOARD OF DIRECTORS OF THE 1ST RESPONDENT COMPANY.
- P3- A TRUE COPY OF THE SELECT LIST OF 18 PERSONNEL, PREPARED BY A PROMOTION COMMITTEE OF THE 1ST RESPONDENT COMPANY, FOR PROMOTING FROM THE POST OF ASSISTANT ENGINEER TO THE POST OF ASSISTANT MANAGER IN THE TECHNICAL DIVISION OF THE COMPANY.
- P4- A TRUE COPY OF THE LIST OF 80 EMPLOYEES WHO ARE FOUND SUITABLE FOR PROMOTION AS ASSISTANT ENGINEERS IN TECHNICAL DIVISION FROM THE POST OF TECHNICAL ASSISTANT PREPARED ON 27/2/2015.
- P5- A TRUE COPY OF THE NOTIFICATION ISSUED BY THE 1ST RESPONDENT DATED 19/1/2015.
- P6- COPY OF THE REPRESENTATION DTD 15.7.2015 SUBMITTED BY PETITIONERS 1 AND 2 AND OTHERS IN EXT.P4 LIST BEFORE THE 1ST RESPONDENT.
- P7- COPY OF THE REPRESENTATION DTD.16.1.2015 SUBMITTED BY KAMCO OFFICERS' ASSOCIATON, BEFORE THE 1ST RESPONDENT.

RESPONDENTS' EXHIBITS :- NIL.

True copy

P.A to Judge

ANIL K.NARENDRA, J.

W.P.(C)No.15068 of 2015

Dated this the 21st day of July, 2015

JUDGMENT

The petitioners, who are working as Technical Assistants in the Kerala Agro Machinery Corporation Ltd, the 1st respondent herein, have filed this Writ Petition seeking a declaration that the steps initiated by the respondents to fill up the existing vacancies of Assistant Managers in the Technical Division of the 1st respondent Corporation by resorting to direct recruitment, pursuant to Ext.P5 notification, when internal candidates are eligible to the said post, is per se arbitrary and illegal. The petitioners have also sought for a writ of certiorari to quash Ext.P5 notification and for other consequential reliefs.

2. The petitioners are mainly relying on Clause 3.1 of Ext.P1 Special Rules, which reads thus;

"3.1 Open recruitment will be made for the posts for which direct recruitment alone are prescribed as per the method of recruitment for each post and in all other cases open recruitment will be resorted to only in case suitable internal candidates are not available except for the post of

Assistant Engineer. In the case of Assistant Engineer in Gr-8, 50% of the vacancies will be filled up by open recruitment."

3. A statement has been filed on behalf of respondents 1 and 2 justifying their stand in issuing Ext.P5 notification.

4. The petitioners have filed a reply affidavit reiterating the contentions raised in the Writ Petition.

5. During the pendency of this Writ Petition, the 1st and 2nd petitioners along with others have submitted Ext.P6 representation before respondents 1 and 2 highlighting their grievances. In Ext.P6 representation the petitioners have pointed out that, if direct recruitment is made to fill up the post of Assistant Manager (Technical), it would result in denial of opportunity to the internal candidates for the promotion to the post of Assistant Engineers.

6. I heard the arguments of the learned counsel for the petitioners and also the learned Standing Counsel for the respondents.

7. The learned Standing Counsel for the 1st respondent Corporation would submit that Ext.P6 representation is pending consideration before them and the same will be disposed of within a

time limit that may be fixed by this Court.

8. Considering the fact that Ext.P6 representation submitted by the petitioners along with others highlighting their grievances raised in this Writ Petition is pending consideration before the 1st respondent, I deem it appropriate to direct the 1st respondent to consider and pass appropriate orders on Ext.P6 representation, with notice to the petitioners, as expeditiously as possible, at any rate, within a period of 2 weeks from the date of receipt of a certified copy of this judgment. Till a decision is taken as directed above, further proceedings pursuant to Ext.P5 shall be kept in abeyance.

It is made clear that this Court has not expressed anything on the merit of the contentions raised by the petitioners and it is for the 1st respondent to take a decision on Ext.P6 representation strictly in accordance with law.

ANIL K.NARENDRAN, JUDGE

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