

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

WP(C).No. 20684 of 2013 (I)

PETITIONER(S):

- 1. THE KERALA STATE BEVERAGES CORPORATION LTD.,
REPRESENTED BY IT'S REGIONAL MANAGER,
REGIONAL OFFICE, KOZHIKODE.**
- 2. THE MANAGER,
KERALA STATE BEVERAGES CORPORATION LTD.,
WAREHOUSE, PAPPINISSERI, KANNUR.**

BY ADV. SRI.M.P.PRAKASH

RESPONDENT(S):

- 1. THE COMMITTEE,
REPRESENTED BY IT'S CHAIRMAN,
KERALA HEADLOAD WORKERS WELFARE FUND BOARD,
DISTRICT COMMITTEE, FOOD GRAINS BHAVAN,
RAJIV GANDHI ROAD, KANNUR- 670 001**
- 2. THE SECRETARY,
KANNUR DISTRICT HEADLOAD WORKERS UNION (CITU),
C.KANNAN SMARAKA MANDIRAM, KANNUR- 670 001**
- 3. THE SECRETARY,
KANNUR DISTRICT HEADLOAD WORKERS UNION (AITUC),
VALAPATTANAM. PIN-670 002**
- 4. THE SECRETARY,
KANNUR DISTRICT DESIA CHUMATTU THOZHILALI
UNION (INTUC),FORT ROAD, KANNUR -670 001**
- 5. THE SECRETARY,
SWATHARA CHUMATTU THOZHILALI UNION (STU),
KANNUR -670 001**
- 6. ASSISTANT LABOUR OFFICER,
2ND CIRCLE, KANNUR.**
- 7. DEPUTY LABOUR OFFICER,
KANNUR,PIN-670 001**

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8. THE DISTRICT LABOUR OFFICER,
KANNUR,PIN-670 001

9. THE REGIONAL JOINT LABOUR COMMISSIONER AND THE APPELLATE
AUTHORITY UNDER THE HEADLOAD WORKERS ACT,
KOZHIKODE.

R1 BY STANDING COUNSEL SRI.C.S. AJITH PRAKASH
SRI.C.A.MAJEED

R2 & R4 BY ADV. SRI.K.P.SREEKUMAR
SRI.P.M.SATHEESH

R6 TO R9 BY GOVERNMENT PLEADER SRI.T.J.MICHAEL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 08-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE LETTER DATED 09-02-2011 OF THE PETITIONERS
- EXHIBIT P2 TRUE COPY OF THE LETTER DATED 03-03-2011 OF THE 1ST RESPONDENT
- EXHIBIT P3 TRUE COPY OF THE AGREEMENT DT 08-03-2011
- EXHIBIT P4 TRUE COPY OF THE LETTER DT 19-04-2011 OF THE 2ND PETITIONER
- EXHIBIT P5 TRUE COPY OF THE RECEIPT DT 27-04-2011
- EXHIBIT P6 TRUE COPY OF THE LETTER DT 25-10-2011 OF THE 2ND RESPONDENT
- EXHIBIT P7 TRUE COPY OF THE NOTICE ISSUED DATED 19-11-2011 BY THE 8TH RESPONDENT
- EXHIBIT P8 TRUE COPY OF THE STATEMENT DATED 28-12-2011 FILED BEFORE THE 8TH RESPONDENT
- EXHIBIT P9 TRUE COPY OF THE REPLY STATEMENT DATED 02-02-2012 OF THE 2ND RESPONDENT
- EXHIBIT P10 TRUE COPY OF THE REPLY STATEMENT DATED 03-02-2012 OF THE 4TH RESPONDENT
- EXHIBIT P11 TRUE COPY OF THE ORDER DATED 08-10-2012 OF THE 8TH RESPONDENT
- EXHIBIT P12 TRUE COPY OF THE APPEAL DATED 15-11-2012 FILED BY THE PETITIONERS
- EXHIBIT P13 TRUE COPY OF THE ORDER DATED 27-06-2013 OF THE 9TH RESPONDENT
- EXHIBIT P14 TRUE COPY OF THE LETTER DATED 20/08/2013 OF THE TRADE UNIONS.
- EXHIBIT P15 TRUE COPY OF THE LETTER DATED 21/08/2013 OF THE 1ST RESPONDENT.
- EXHIBIT P16 TRUE COPY OF THE LETTER DATED 23/08/2013 ADDRESSED TO THE 1ST RESPONDENT.
- EXHIBIT P17 TRUE COPY OF THE LETTER DATED 30/08/2013 ADDRESSED TO THE 1ST RESPONDENT.
- EXHIBIT P18 TRUE COPY OF THE AGREEMENT DATED 20/04/2010

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EXHIBIT P19 TRUE COPY OF THE AGREEMENT DATED 12/04/2012

EXHIBIT P20 TRUE COPY OF THE AGREEMENT DATED 24/11/2014.

RESPONDENT(S)' EXHIBITS

EXHIBIT R2(A) TRUE COPY OF THE ORDER/DECISION TO SHIFT THE WAREHOUSE
TO KASARAGOD TAKEN BY THE BC, DATED 7/2/2014.

/TRUE COPY/

P.S.TO.JUDGE

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K.Vinod Chandran, J.

W.P.(C).No.20684 of 2013-I

Dated this the 08th day of January, 2015

JUDGMENT

The above writ petition was filed by the petitioner-Corporation challenging Exhibit P11 order of the District Labour Officer [DLO], which was confirmed in appeal by Exhibit P13. The dispute arose with respect to fixation of wages for the unloading and loading work carried on in the godowns of the petitioner-Corporation.

2. As per the Kerala Headload Workers Act, 1978 [for brevity “the Act”] and the Kerala Headload Workers (Regulation of Employment and Welfare) Scheme, 1983 [for brevity “the Scheme”], the petitioner-Corporation engages labour from the pool constituted under the Scheme, which is administered by the Kerala Headload Workers Welfare Fund Board [for brevity “the Board”]. The petitioner-Corporation entered into an agreement with the Board as to the wages payable to the workmen. The individual workers registered under the Act and enrolled in the pool, raised a dispute against such fixation before the DLO, contending that the said fixation of wages was behind their back.

The same was allowed. The appeal filed by the Corporation was also rejected. The primary contention raised by the petitioner is that, the DLO has absolutely no role in the matter, since the petitioner is not in the roll of an employer and the Board, who protects the interests of the labour, has entered into an agreement with the petitioner. If at all the workers have any dispute, they have to agitate the same with the Board and not the Corporation, is the contention.

3. The learned counsel appearing for respondents 2 and 4, however, would contend that there were two separate godowns at Pappinissery and Kannur, within a distance of 10 Kms., and there was gross disparity in the wages fixed. Though the Board has to protect the interest of the workmen, in the present case the Union of workmen felt that the interest of the workmen was not safeguarded by the Board and hence an application was filed before the DLO. The 2nd respondent has filed a detailed counter affidavit.

4. Be that as it may, as of now the learned counsel for the petitioner contends that there is a tripartite agreement between the petitioner, the Board and the representative Unions

as per Exhibit P20, wherein certain terms have been entered into in modification of the earlier agreement. In such circumstance, nothing survives for consideration in the above writ petition. Suffice it to notice that, by clause-3 of Exhibit P20 the petitioner-Corporation is liable to make deposit of certain amounts, immediately, after the disposal of the above writ petition. The petitioner-Corporation shall make such deposit before the 1st respondent within a period of three weeks from the date of receipt of a certified copy of this judgment and the 1st respondent shall also take adequate measures to disburse the same to the entitled labourers.

The writ petition is disposed of as above. No costs.

Sd/-
K.Vinod Chandran
Judge

vku/-

(true copy)