

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 11TH DAY OF SEPTEMBER 2015/20TH BHADRA, 1937

WP(C).No. 18980 of 2015 (Y)

PETITIONER(S):

SUNIL KUMAR AGED 45 YEARS
S/O. S.SARANGAPANI, P-109, SAIMANTHRAN
PATTANIKUNNU LANE, SASTHAMANGALAM
THIRUVANANTHAPURAM - 695 010.

BY ADVS.SRI.RAVI KRISHNAN
SRI.RAHUL SHENOY
SRI.K.KRISHNAN
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURYAN THOMAS

RESPONDENT(S):

1. KERALA INDUSTRIAL INFRASTRUCTURE DEVELOPMENT CORPORATION
KINFRA HOUSE, SASTHAMANGALAM
TRIVANDRUM - 695 010M REPRESENTED BY ITS MANAGING DIRECTOR.
2. THE MANAGING DIRECTOR
KERALA INDUSTRIAL INFRASTRUCTURE DEVELOPMENT
CORPORATION (KINFRA)
KINFRA HOUSE, SASTHAMANGALAM, TRIVANDRUM - 695 010.
3. THE PRINCIPAL SECRETARY TO GOVERNMENT
INDUSTRIES DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM - 690 001.

R1-2 BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR
R 3 BY GOVERNMENT PLEADER SMT M J RAJASREE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
11-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 - THE TRUE COPY OF THE EXTRACTS OF THE MINUTES OF THE BOARD SUB COMMITTEE MEETING OF THE 1ST RESPONDENT DT. 22.9.07.

EXT.P2 - THE TRUE COPY OF THE NEWS ITEM PUBLISHED IN MATRUBHOOMI DAILY DT. 01.1.08.

EXT.P3 - THE TRUE COPY OF THE MINUTES OF THE FINAL INTERVIEW FOR DEPUTY MANAGER (ADMINISTRATION) FOR KINFRA DT. 04.2.08.

EXT.P4 - THE TRUE COPY F THE EXTRACTS OF THE MINUTES OF BOARD MEETING DT. 15.4.08.

EXT.P5 - THE TRUE COPY OFTHE REPRESENTATION SUBMITTED BEFORE THE 3RD RESPONDENT DT. 02.11.12.

EXT.P6 - THE TRUE COPY OF THE LETTER NO. 32820/G1/2012/ID DT. 05.11.12.

EXT.P7 - THE TRUE COPY OF THE LETTER NO. 32820/G1/2012/ID DT. 25.1.13

EXT.P8 - THE TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE 1ST RESPONDENT DT. 24.2.15.

RESPONDENT(S)' EXHIBITS

ANNX.R1(a): TRUE COPY OF THE EXTRACTS OF THE MINUTES OF THE 50TH BOARD SUB COMMITTEE MEETING OF THE 1ST RESPONDENT HELD ON 22.9.2007

ANNX R1(b): TRUE COPY OF the BIO DATA FORM SUBMITTED BY THE PETITIONER TO KITCO LTD. DT 18.12.2007

ANNX R1(c); TRUE COPY OF THE MINUTES OF the 47TH BOARD MEETING OF THE 1ST RESPONDENT DT 15.04.2008

ANNXR19d0; TRUE COOPY OF THE JOINING REPORT OF THE PETITIONER DT 25.9.2008 IN THE 1ST RESPONDENT CORPORATION

TRUE COPY

P.A TO JUDGE

K. VINOD CHANDRAN, J

W.P(C) No. 18980 of 2015

Dated this the 11th day of September, 2015

J U D G M E N T

The petitioner is aggrieved with the fact that though the petitioner had been called for selection as per Ext.P2 which offered appointment as Deputy Manager, Administration, the petitioner when selected was posted as Assistant Manager, Administration. The learned Standing Counsel for the 1st and 2nd respondent opposes the writ petition mainly on the question of delay as also on merits.

2. The learned counsel would also point to an application made at Annexure R1(d) which is for the designation of Assistant Manager, Administration. This the petitioner did, very well aware of the fact that the petitioner did not have the essential qualification for appointment as Deputy Manager, Administration. Ext.P2 calls for applications to the post of Deputy Manager, Administration with the essential qualifications

prescribed thereunder and with a minimum 10 years of experience in human resources management field. A rider was also stipulated in Ext.P2 in the following manner.

“Requirements of qualification, experience and age are relaxable for SC/ST candidates and in exceptional and deserving cases. Candidates with lesser background or experience may be considered for a lower post. Interested persons may apply with bio-data showing all the details, within 15 days”

The petitioner going by Ext.R1(d) did not have the minimum experience prescribed since he had been working only from 2001 to 2008, in which year the application was made. It was hence; quite aware of the fact that he is not competent to be appointed as Deputy Manager, Administration, application was made for the post of Assistant Manager, Administration. Though the petitioner was selected under the sanctioned post of Deputy Manager, along with one Shiney Thomas, he was posted as an Assistant Manager, Administration against the sanctioned post of Deputy Manager,

Administration.

3. In such circumstances, the writ petition filed is clearly hit by delay and is also an abuse of process of this Court. The petitioner having applied for the post of Assistant Manager, Administration and having accepted that post, has attempted to turn around and file the above writ petition, that too after seven years, on the contention that the petitioner had to be appointed as Deputy Manager, Administration. The respondent, which is a public sector organization, was unnecessarily dragged into this Court. The petitioner shall be mulcted with a cost of Rs.1000/-, which shall be recovered from the salary of the petitioner.

Writ petition is dismissed.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

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P.A to Judge