

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C).No. 23173 of 2012 (V)

PETITIONER(S):

**N.A.SUPRABHA, AGED 53 YEARS
W/O.SUREDNRAN NAIR, WORKING AS DRAFTSMAN GRADE-I,
GREATER COCHIN DEVELOPMENT AUTHORITY, KADAVANTHRA
ERNAKULAM.**

**BY ADVS.SRI.T.A.UNNIKRISHNAN
SRI.K.S.PRAVEEN**

RESPONDENT(S):

- 1. THE GOVERNMENT OF KERALA
REPRESENTED BY SECRETARY
LOCAL SELF GOVERNMENT (IA) DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE GREATER COCHIN DEVELOPMENT AUTHORITY
REPRESENTED BY ITS SECRETARY, ERNAKULAM-682 020.**
- 3. A.M.SHANAVAS
WORKING AS ASSISTANT ENGINEER (CIVIL),
ENGINEERING DEPARTMENT
GREATER COCHIN DEVELOPMENT AUTHORITY,
ERNAKULAM-682 020.**

**R1 BY GOVERNMENT PLEADER SRI.G.GOPAKUMAR
R2 BY ADV. SRI.S.B.PREMACHANDRA PRABHU
R3 BY ADVS. SRI.B.GOPAKUMAR
SRI.V.A.MUHAMMED
SRI.M.SAJJAD**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1. TRUE COPY OF THE ORDER DATED 7/12/2005 ISSUED BY THE 2ND RESPONDENT.**
- EXHIBIT P2. TRUE COPY OF THE ORDER DATED 1/7/2009 ISSUED BY THE 2ND RESPONDENT.**
- EXHIBIT P3. TRUE COPY OF THE ORDER DATED 12/5/2011 ISSUED BY THE 1ST RESPONDENT.**
- EXHIBIT P4. TRUE COPY OF THE INTERIM ORDER DATED 17/6/2011 IN WPC NO.16259/2011 PASSED BY THIS COURT.**
- EXHIBIT P5. TRUE COPY OF THE ORDER DATED 1/6/2012 ISSUED BY THE 2ND RESPONDENT.**
- EXHIBIT P6. TRUE COPY OF THE INFORMATION DATED 20/09/2012 ISSUED BY THE 2ND RESPONDENT.**
- EXHIBIT P7. TRUE COPY OF THE REQUEST DATED 20/6/2012 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.**
- EXHIBIT P8. TRUE COPY OF THE ORDER DATED 11/3/14 PASSED BY THE R2**
- EXHIBIT P9. TRUE COPY OF THE ORDER DATED 11/3/14 PASSED BY THE R2**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

RESPONDENTS' EXHIBITS

A.M.SHAFIQUE, J.

W.P.(C) No.23173 of 2012

Dated this the 15th day of January, 2015

JUDGMENT

The petitioner challenges Exhibit P5 order by which the petitioner was reversed to the post of Draftsman/Overseer Grade-I.

2. The facts involved in this writ petition would disclose that the petitioner and the 3rd Respondent together were working in the Greater Cochin Development Authority (G.C.D.A) in the post of Overseer Grade-I. They were promoted to the post of Assistant Engineer in 2005 by virtue of Ext.P1. The petitioner's probation was declared on 15.01.2008, as per Ext.P2. As far as the 3rd Respondent is concerned, his probation was declared on 01.06.2009, the date on which he attained the age of 50 years.

3. In the meantime, the G.C.D.A had issued an order of reversion of all the promotees who were promoted in terms of Ext.P1 as there was complaint that the ratio for promotion to the post of Assistant Engineer was not

followed. As per the ratio, Assistant Engineer cadre had to be filled up between direct recruits Overseer Grade-I having Diploma and Overseer Grade-I having Certificate in the ratio of 6:3:1. Apparently, the order of reversion was passed as promotions were made contrary to the aforesaid ratio as the persons under Ext.P1 who were promoted were either Diploma holders or Certificate holders.

4. The order of reversion was challenged before this Court. This Court did not entertain the same and this Court directed that the matter be re-considered. Even after re-consideration, a similar order has been passed approving the reversion. This matter was again the subject matter of W.P.(C) No.16259/2011 and this Court by order dated 17.06.2011, clarified that when direct recruits are selected and appointed for satisfying the quota to the extent of quota is not satisfied, it would be open to the G.C.D.A to revert the junior-most among the other categories, if it is necessary to satisfy the quota for direct recruits. On this basis, it is contended by the

petitioner that being the senior-most among the cadre of Assistant Engineer, she should have been retained in that post whereas the GCDA has promoted the 3rd Respondent. Reference is also made to Ext.P6 to indicate that the G.C.D.A had in fact called upon the 3rd Respondent to refund the entire amount received in the cadre of Assistant Engineer.

5. Essentially, counter affidavits have been filed by the Respondents supporting the stand taken by the G.C.D.A in the matter.

6. The entire controversy revolves round the seniority among the petitioner and the 3rd Respondent.

7. According to the petitioner, the direction issued by this Court in W.P.(C) No.16259/2011 would indicate that the junior-most among the parties should be reverted. It is argued that in the cadre of Assistant Engineer, 3rd Respondent was junior to the petitioner. This argument is controverted by the Respondents. According to them, seniority is to be considered in the post of Overseer Grade-I from which post the promotions

had been made.

8. Having heard the learned counsel appearing on either side, I am also of the view that the direction issued by this Court in the judgment dated 17.06.2011 will not help the petitioner in any manner. Apparently, all the six persons who were promoted in terms of Ext.P1 were reverted. This order of reversion has become final. This Court had only pointed out that until direct recruits are available for appointment after the selection to satisfy their quota, it would be open for the G.C.D.A to revert the junior-most among the other categories. The junior-most among the other categories cannot be considered on the basis of the cadre from which the petitioner and the 3rd Respondent were reverted. The junior-most has to be appointed from the cadre from which they were wrongfully promoted to the post of Assistant Engineer. In that view of the matter, the seniority has to be reckoned with reference to the post of Overseer Grade-I and in the light of such factual matrix, it is clear that Ext.P5 is sustainable.

In the circumstances, I do not find any merit in the contentions raised on behalf of the petitioner and accordingly, this writ petition is dismissed.

Sd/-
A.M.SHAFFIQUE,
JUDGE

//true copy//

P.S. To Judge

St/-