

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).NO. 23705 OF 2012 (K)

PETITIONER(S):

**P.B. ARUNCHANDRAN, AGED 25 YEARS,
S/O.N. PREMACHANDRAN NAIR,
NADUTHALA VEEDU, VELLAYANI, NEMOM P.O.,
THIRUVANANTHAPURAM, NOW RESIDING AT 'CHOTHI',
N.S.S. ROAD, PULIMOOTTUVILAKAM, PRAVACHAMBALAM,
NEMOM P.O., THIRUVANANTHAPURAM- 695 020.**

**BY ADVS.SRI.A.K.ABDUL AZEEZ,
SRI.T.K.SASINDRAN,
SRI.RENJIT GEORGE.**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
TOURISM DEPARTMENT, GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**
- 2. THE SECRETARY TO GOVERNMENT,
TOURISM DEPARTMENT, REPRESENTED BY
THE VICE CHAIRMAN, FOOD CRAFT INSTITUTE SOCIETY,
THIRUVANANTHAPURAM- 695 001.**
- 3. THE DIRECTOR,
FOOD CRAFT INSTITUTE/KERALA SOCIETY, VAZHUTHACAUD,
(NEAR WOMEN'S COLLEGE), THIRUVANANTHAPURAM- 695 002.**
- 4. THE PRINCIPAL,
FOOD CRAFT INSTITUTE, BEKAL, VESTAL PLAZA BUILDING,
P.O. UDMA, KASARAGOD - 671 319.**

**R1 & R2 BY SPL. GOVT. PLEADER SRI.A.K. JOHN.
R3 & R4 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL, SC.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 24-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE SECONDARY SCHOOL LEAVING CERTIFICATE.
- EXT.P2 COPY OF THE CONTRIBUTION TO THE SAID FUND MADE BY THE PETITIONER FOR THE YEARS 2009-2010 AND 2010-2011.
- EXT.P3 COPY OF THE EXPERIENCE CERTIFICATE DATED 30/03/2012.
- EXT.P4 COPY OF THE CERTIFICATE FROM THE SI OF POLICE, BEKAL POLICE STATION DATED 13/10/2012.
- EXT.P5 COPY OF THE RELEVANT PORTION OF THE RECRUITMENT AND PROMOTION RULES FOR ACADEMIC AND NON-ACADEMIC STAFF IN FOOD CRAFT INSTITUTES.
- EXT.P6 COPY OF THE INTERIM ORDER VIDE WP(C).NO.12300/2011 DATED 12/04/2011.
- EXT.P7 COPY OF THE EXPERIENCE CERTIFICATE DATED 16/10/2012 ISSUED BY THE 4TH RESPONDENT.
- EXT.P8 COPY OF THE DETAILS IN CONNECTION WITH POSTS IN VARIOUS BRANCHES OF FOOD CRAFT INSTITUTE (KERALA) SOCIETY.
- EXT.P9 COPY OF THE ATTENDANCE REGISTER FROM 09/10/2012 TO 31/10/2012.
- EXT.P10 NIL.
- EXT.P11 COPY OF THE LETTER VIDE NO.86931/B3/12/TOURISM DATED 27/10/2013 ISSUED BY THE 1ST RESPONDENT.
- EXT.P11 (IN I.A. NO.12650/2014) ENGLISH TRANSLATION OF EXT.P11.

RESPONDENT'S EXHIBITS:-

- EXT.R3A COPY OF THE COMPLAINT RECEIVED BY 3RD RESPONDENT.
- EXT.R3B COPY OF THE APPLICATION DATED 15/03/2012 SUBMITTED UNDER RTI ACT TO INFORMATION OFFICER, BEKAL RESORTS DEVELOPMENT CORPORATION LTD.
- EXT.R3C COPY OF THE REPLY DATED 29/03/2012 FURNISHED BY THE INFORMATION OFFICER, BRDC LTD.

- EXT.R3D COPY OF THE RECEIPT NO.4475 DATED 17/11/2011 FURNISHED
BY THE INFORMATION OFFICER BRDC LTD.**
- EXT.R3E COPY OF THE APPLICATION SUBMITTED TO INFORMATION OFFICER,
FOOD CRAFT INSTITUTE, KALAMASERY.**
- EXT.R3F COPY OF THE REPLY FURNISHED BY THE INFORMATION OFFICER,
FOOD CRAFT INSTITUTE, UDUMA.**
- EXT.R3G COPY OF THE REPORT SUBMITTED BY THE ENQUIRY OFFICER.**
- EXT.R3H COPY OF THE LETTER DATED 09/10/2012 SENT BY THE
3RD RESPONDENT TO SECRETARY, TOURISM (B) DEPARTMENT.**
- EXT.R3I COPY OF THE DUPLICATE COPY OF THE RECEIPT NO.4475
DATED 17/11/2011 MAINTAINED AT FOOD CRAFT INSTITUTE, UDUMA.**
- EXT.R3J COPY OF THE LETTER DATED 07/11/2012 GIVEN TO GOVERNMENT
FOR INITIATING DISCIPLINARY ACTION AGAINST
SHRI SHAJI MADHAVAN.**

//TRUE COPY//

P.S. TO JUDGE

rs.

A.M. Shaffique, J.

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W.P (C) No. 23705 of 2012

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Dated this, the 24th day of February, 2015.

J U D G M E N T

Petitioner has sought the following reliefs:

- “(i) Issue a writ of mandamus or any other appropriate writ, order or direction directing the 4th respondent to retain the petitioner in the present post of attender in the office of the 4th respondent.
- (ii) Issue a writ of mandamus or any other appropriate writ, order or direction directing the 4th respondent to retain the post of the petitioner as vacant till the petitioner is permitted to join duty in the present post as attender.
- (iii) Declare that the petitioner is entitled to continue in the present post as attender in the office of the 4th respondent.”

2. It is submitted that the petitioner was appointed as attender in the office of the 4th respondent on 24.7.2009 and he has been working in the said post till 8.10.2012. Later, his appointment was terminated. The petitioner challenges the same and has sought for the reliefs aforesaid.

3. The petitioner has not produced any materials to indicate that he was appointed on a regular basis in a substantive post. Even according to the petitioner, he was appointed on daily wage basis. Appointment was not made by resorting to any of the procedure prescribed under law.

As the petitioner was working on daily wage basis, he cannot claim any permanent employment and it was always open for the employer to terminate the service at any point of time. The issue is covered by the judgment of the Supreme Court in State of Karnataka & Others v. Umadevi & Others, (2006) 4 SCC 1.

4. It is pointed out by the learned counsel for the petitioner that back door appointments are being made by the 4th respondent. Incidentally, if any appointment has to be made in respect of public employment, it has to be made on the basis of an established procedure.

In the said circumstances, I do not think that the petitioner is entitled for any reliefs as claimed. Accordingly, this writ petition is dismissed.

Sd/-

A.M. Shaffique, Judge.

Tds/