

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

W.P.(C).No.32839 of 2004 (H)

PETITIONER(S):-

A. ABDUL SHERIEF,
VALIYAVILAYL BUNGLOW, PADINJATTAKKARA P.O.,
THEVALAKKARA, KOLLAM DISTRICT,
RETIRED SENIOR ASSISTANT,
ELECTRICAL SECTION, THEVALAKKARA.

BY ADV. SRI.K.ABDUL JAWAD.

RESPONDENT(S):-

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1. STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM.
 2. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY THE SECRETARY, VYDHYUTHI BHAVAN, PATTOM,
THIRUVANANTHAPURAM.
 3. EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD, ELECTRICAL DIVISION,
KARUNAGAPPALLY.
 4. DIRECTOR,
DIRECTORATE OF PANCHAYATH, THIRUVANANTHAPURAM.

R1 & R4 BY GOVERNMENT PLEADER SRI.T.R.RAJESH.
R2 & R3 BY SENIOR ADVOCATE SRI.N.N.SUGUNAPALAN,
STANDING COUNSEL SRI.N.SUJIN.
R2 & R3 BY SENIOR ADVOCATE SRI.P.SANTHALINGAM.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
15-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 TRUE COPY OF THE K.S.E.B. ORDER DATED 12.3.92.
- EXT.P2 TRUE COPY OF LETTER NO.PA.G1.1/30/2003 DATED 13.6.2003
TO THE 3RD RESPONDENT FROM 2ND RESPONDENT.
- EXT.P3 TRUE COPY OF LETTER BY 3RD RESPONDENT NO.EB7/03-04/507
DATED 4.7.2003.
- EXT.P4 TRUE COPY OF THE REPRESENTATION DATED 7.7.2003
SUBMITTED BY THE PETITIONER BEFORE THE
4TH RESPONDENT.
- EXT.P5 TRUE COPY OF THE REPRESENTATION DATED 7.7.2003
SUBMITTED BY THE PETITIONER BEFORE THE SECRETARY,
FINANCE DEPARTMENT, TVM.
- EXT.P6 TRUE COPY OF THE LETTER NO.C2-639/03 DATED 25.8.03
ISSUED BY SECRETARY OF THEVALAKKARA GRAMA PANCHAYATH
TO THE 4TH RESPONDENT.
- EXT.P7 TRUE COPY OF THE LETTER NOI.C.3- 453/03 DATED 28.8.03
ISSUED BY THE SECRETARY, KLAPPANA GRAMA PANCHAYATH
TO THE 4TH RESPONDENT.
- EXT.P8 TRUE COPY OF COMMUNICATION OF REJECTION DATED 8.7.2004
ISSUED BY THE 1ST RESPONDENT.
- EXT.P9 TRUE COPY OF COMMUNICATION OF REJECTION DATED
24.7.2004 ISSUED BY 4TH RESPONDENT.

RESPONDENT'S EXHIBITS:-

NIL.

vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.32839 of 2004-H

Dated this the 15th day of October, 2015

JUDGMENT

The petitioner claimed benefit of Exhibit P1 order of the Kerala State Electricity Board [for brevity “the Board”]. In Exhibit P1, the Board having considered all aspects of the matter, accorded sanction for reckoning of the service rendered by the Board employees in State Government Departments/Quasi-Government Organisations prior to their appointment/absorption in the Board as qualifying service to sanction pensionary benefits due to them in the Board. The petitioner was aggrieved with the fact that the petitioner had not been granted such benefit insofar as reckoning the 7 [seven] years service spent in Panchayat Department as qualifying service in the Board.

2. When the matter was taken up today, the learned counsel submits that the subsequent events would otherwise entitle the petitioner to such claim. A proviso was added in Rule 20 of Part III of Kerala Service Rules [for brevity “KSR”] which

indicated that the past service put in by the Government employees and Aided School/Aided College Teachers in Panchayath/Municipal common Service and Universities prior to their entry in State Government Service or Aided School/Aided College Service shall be reckoned as qualifying service for Pension and Death-cum-Retirement Gratuity from Government. The same was also made applicable in all cases in which retirement takes place on or after 02.02.2001. The proviso was introduced by G.O.(P) No.269/2008/Fin dated 21.06.2008.

3. The KSR is adopted in the Board. A question on the application of prior service as provided in Rule 14E Part III KSR came up for consideration before this Court in ***Abdul Jabbar v. K.S.E.B. [2010 (1) KLT 586]*** and it was held by the Division Bench that since the provisions of the KSR are adopted by the Board, wherein the KSR refers to the Government; as far as the Board is concerned, it shall be reference to the Board. In such circumstance, the petitioner is entitled to be granted the benefit of the proviso to Rule 20 of Part III KSR and his previous service reckoned for the purpose of pensionary benefits. The petitioner

shall approach the appropriate authority under the Board within one month from the date of receipt of a certified copy of this judgment; upon which the appropriate authority, on verification of the earlier service, shall reckon the same as qualifying service, if found to be genuine. The issue shall be considered and disposed at any rate within three months from the date of production of the documents relating to the previous service. This shall be without any liability for pro-rata pension from the Government; which, in any event, is not provided for.

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

Sd/-
K.Vinod Chandran
Judge.

vku/-

[true copy]