

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

W.P.(C).No.30393 of 2006 (R)

PETITIONER(S):-

1. V.V. RAJEEVAN, AGED 30 YEARS, S/O.VELAPPAN,
VALAPPAD HOUSE, KANDANISSERY,
THRISSUR DISTRICT.
2. MADANAN, S/O.SREEDHARAN,
MACHINGAL HOUSE, MAMPILLY, KANDASSANKADAVU
THRISSUR.

BY ADVS.SRI.RENJITH THAMPAN [SENIOR ADVOCATE]
SMT.P.A.ANITHA.

RESPONDENT(S):-

1. TODDY WORKERS WELFARE FUND BOARD,
REPRESENTED BY SECRETARY,
O/O. TODDY WORKERS WELFARE FUND BOARD,
THIRUVANANTHAPURAM.
 2. THE WELFARE FUND INSPECTOR-I,
TODDY WORKERS WELFARE FUND BOARD, THRISSUR.
 3. CONVENOR, CHAVAKKAD RANGE KALLUCHETHU MADHYA
VYAVASAYA THOZHILALI SAMITHI, PUTHUVATOOR,
GURUVAYOOR.
- * Addl.4. KRISHNADAS, AGED 32, S/O.LATE ARAVINDAKSHA MENON,
MANNUNGAL HOUSE, GURUVAYOOR, THRISSUR.

* ADDL.4TH RESPONDENT IS IMPEADED AS PER ORDER
DATED 07.02.2007 IN I.A.NO.697/07.

R1 & R2 BY STANDING COUNSEL SRI.RENIL ANTO.
ADDL.R4 BY ADV. SRI.G.SREEKUMAR (CHELUR).

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
13-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 TRUE COPY OF THE CONTRIBUTION STATEMENT DATED 31.03.04
 OF THE 3RD RESPONDENT AS REGARDS SHOP NO.36 OF
 CHAVAKKADRANGE.
- EXT.P1(a) TRUE COPY OF THE CONTRIBUTION STATEMENT DATED 31.03.04
 OF THE 3RD RESPONDENT AS REGARDS SHOP NO.47 OF
 CHAVAKKADRANGE.
- EXT.P2 TRUE COPY OF CONTRIBUTION STATEMENT SUBMITTED BY
 3RD RESPONDENT, FOR THE YEAR 04-05.
- EXT.P2(a) TRUE COPY OF CONTRIBUTION STATEMENT SUBMITTED BY
 3RD RESPONDENT, FOR THE YEAR 04-05.
- EXT.P3 TRUE COPY OF STATEMENT FILED BY THE 3RD RESPONDENT
 FOR THE PERIOD 1.10.05 TO 31.12.05.
- EXT.P4 TRUE COPY OF THE REPRESENTATION FILED BY THE
 PETITIONERS DATED 31.05.2006.
- EXT.P5 TRUE COPY OF THE JUDGMENT IN W.P.(C).NO.16651 OF 2006
 DATED 28.06.2006.
- EXT.P6 TRUE COPY OF THE ORDER DATED 09.10.06 OF THE
 2ND RESPONDENT.
- EXT.P7 TRUE COPY OF THE LETTER DATED 13.03.06 OF THE
 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

(true copy)

K. Vinod Chandran, J.

W.P(C) No.30393 of 2006-R

Dated this the 13th day of February, 2015

JUDGMENT

The petitioners are said to be employees of a toddy shop in Chavakkad Range in the Thrissur District from the year 2003-04. They are said to have been engaged as toddy workers in shop Nos.47 and 36 respectively, in Chavakkad Range from October, 2003 onwards. The petitioners were aggrieved in the above writ petition with an order passed by the 2nd respondent keeping their registration under the Kerala Toddy Workers' Welfare Fund Act, 1969 [for brevity "Welfare Fund Act"] in abeyance for reason of a dispute pending between the Unions with respect to the petitioner's employment.

2. The 3rd respondent is said to be the Union which has objected to the registration of the petitioners, challenging their entitlement to be engaged as toddy workers in the Chavakkad Range. The dispute is said to have been referred to the District Labour Officer, which remained unresolved till Exhibit P6 order was passed. Exhibit P6 hence, was issued, directing the petitioners to

approach the appropriate authority for settlement of the dispute between the Unions. Exhibit P6 found that since conciliation proceedings are pending, no registration could be granted pending such conciliation proceedings.

3. The learned counsel appearing for the respondent-Board would submit, on instruction, that in fact, the petitioners were working from 2003 onwards and contributions were also paid with respect to the petitioners before the appropriate authority under the Board till 2006. After 2006, the Board has no information as to their engagement or disengagement. The petitioner's counsel, however, asserts that they have been continuously employed and even today they are employed in toddy shops under two contractors.

4. When employment is admitted by the Board and contributions too remitted, then definitely for that period the petitioners have to be granted registration. However, no positive direction can be issued, since the notice on the 3rd respondent has not been served till date. It is also submitted by the learned counsel that the District Labour Officer has not finalised the conciliation proceedings. The petitioners would have to take up that issue before

that officer, who is also not made a party here.

5. In any event, considering the long passage of time, it is directed that the 1st respondent, more specifically, the Chief Welfare Fund Inspector, would conduct an enquiry as to the employment of the petitioners and grant them registration, if they are found to have been employed as submitted by them before this Court.

The writ petition would stand disposed of with the aforesaid direction to the 1st respondent, which shall be complied within four months from the date of receipt of a certified copy of this judgment. It is made clear that, this Court has not made observations with respect to the merits of the matter and the Chief Welfare Fund Inspector would have to proceed in accordance with law and the provisions of the Welfare Fund Act and the Scheme. All contentions of either parties are left open. No costs.

Sd/-
K. Vinod Chandran,
Judge

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(true copy)