

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

WP(C).No. 20902 of 2014 (K)

PETITIONER(S):

1. PRATHAPAN P., AGED 27 YEARS
S/O.PRABHAKARAN, "ASWATHI", VANDOOOR (VIA)
CHATHENGOTTUPURAM P.O., MALAPPURAM -679 328.
2. BIJUKUMAR T, AGED 36 YEARS
S/O.THANKASWAMY (LATE), 'BETHSAIDA', PLAMTHOTTAM
TIRUPURAM P.O., NEYYATTINKARA, THIRUVANANTHAPURAMDIST
PIN - 695 133.
3. BIJEESH KUMAR K.M, AGED 29 YEARS
S/O.KUMARAN P.T., KARUVOTHMEETHAL
KOOHALI P.O, PERAMBRA (VIA)
KOZHIKODE - 673 525
(*P3 IS DELETED AS PER ORDER DATED 23.09.2014 IN IA. 12502/2014.)
4. DEEPU.H AGED 35 YEARS
S/O.K.HARIDAS, KIZHAKKEVELIYIL, KATTOOR P.O.
SARVODAYAPURAM, ALAPPUZHA DISTRICT, PIN - 688 546.
5. SAJID P, AGED 26 YEARS
S/O.MOOSA, KALLIDUMBIL HOUSE, AMAYOOR P.O.
MALAPPURAM - 676 123.

BY ADVS.SRI.B.S.SIVAJI
SRI.P.SREEKUMAR

RESPONDENT(S):

1. KERALA PUBLIC SERVICE COMMISSION
PATTOM, PIN - 695 004
THIRUVANANTHAPURAM REPRESENTED
BY ITS SECRETARY.
2. KERALA WATER AUTHORITY
JALA BHAVAN
THIRUVANANTHAPURAM - 695 033, REPRESENTED BY
ITS MANAGING DIRECTOR.

CONTD .. 2..

**3. THE DEPARTMENT OF FINANCE
GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM, REPRESENTED BY ITS PRINCIPAL
SECRETARY.**

**4. STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY
WATER RESOURCES (WSB) DEPARTMENT, GOVT. OF KERALA
THIRUVANANTHAPURAM- 1**

R2 BY ADV. SRI.MILLU DANDAPANI, SC, KERALA WATER AUTHORITY

R1 BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC

R3 & 4 BY ADV. GOVERNMENT PLEADER SMT. M.J. RAJASREE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: TRUE COPY OF THE NOTIFICATION IN RESPECT OF RANKED LIST OF FITTER (CATEGORY NO.25/2008) DT.4.5.2011
- EXT.P-2: TRUE COPY OF THE ORDER NO.3943/AD3/2014/ADM.DATED 13.2.2014 BY GOVT.
- EXT.P-3: TRUE COPY OF THE NOTIFICATION AV (2) 4182/02/GW DATED 28.3.2014 BY THE 1ST RESPONDENT
- EXT.P-4: TRUE COPY OF THE REPRESENTATION DATED 2.9.2013 BY THE FITTER RANK HOLDERS ASSOCIATION 2011-14
- EXT.P-5: TRUE COPY OF THE RELEVANT PAGES OF G.O(P) NO.58/2012/FIN. DATED 19.1.2012 BY THE 3RD RESPONDENT
- EXT.P-6: TRUE COPY OF THE INFORMATION NO.96951/INFR.1/2012/FIN. DATED 3.12.2012
- EXT.P-7: TRUE COPY OF THE INFORMATION NO.55956/INF.2/2014/FIN. DATED 27.6.2014
- EXT.P8 COPY OF THE CIRCULAR NO.KWA/JB/E7/22541/2014 DATED 25/11/14 ISSUED BY THE 2ND RESPONDENT.
- EXT.P9 COPY OF THE REPLY NO.KWA/JB/E-7/4802/2011 DATED 28/3/14 WITH RELEVANT PAGES OF NOTE FILE ISSUED BY THE STATE PUBLIC INFORMATION OFFICER UNDER THE 2ND RESPONDENT.
- EXT.P10 COPY OF THE ORDER G.O(MS) NO.53/05/WRD DATED 21.10.05 ISSUED BY THE 4TH RESPONDENT.
- EXT.P11 COPY OF THE INFORMATION NO. KWA/JB/E-7/RTI/4620/2011 DATED 23/9/11.
- EXT.P12 COPY OF THE INFORMATION NO.KWA/JB/E-7/4620/2011 DATED 8.3.13.

RESPONDENT(S)' EXHIBITS

- EXT.R2(A) COPY OF PROCEEDINGS VIDE ORDER NO.KWA/JB/4626/2011, DATED 6.9.13

// true copy //

PA to Judge

K. VINOD CHANDRAN, J.

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W.P.(C) No.20902 of 2014 - K

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Dated this the 30th day of September, 2015

J U D G M E N T

The petitioners are aggrieved with the fact that the Water Authority has not reported the vacancies of Fitter available in the authority. The petitioner's contention revolves on the ground that by Ext.P6, it has been informed to the petitioner that there are 127 vacancies of Fitter of which 21 are designated as Head Fitters and the balance 106 designated as Fitters.

2. The petitioner seeks that vacancies existing in the Water Authority taking the sanctioned strength as 127, be reported. The Water Authority has filed a counter affidavit, in which it is specifically stated that the existing vacancies of Fitter including Head Fitter is 117 as is indicated at Ext.R2(a).

3. However, the learned counsel for the petitioner refuted such contention on the basis of the Office Note in Ext.P7, wherein there was a recommendation made, as to whether 10 numbers of vacancies taking the strength of as sanctioned posts

of Fitter as 127. Going by the above Office Note, it is seen that 20 Fitters were regularized as per the Government Order, who were earlier NMR hands along with the other similar employees in different categories.

4. The specific contention taken up in the Note is that, the entire regularization so made was by sanctioning of new posts and 10 number of Fitters, who were regularized were accommodated in the vacancies available. It was only in such circumstance that the sanctioned post came down to 117 was the ground on which there was a request made for reporting 10 further vacancies.

5. However, this Court cannot go by an Office Note, which has not been approved. Further what stands against the petitioner is the specific finding as recorded in Ext.R2(a), wherein it has been stated that there are only 117 vacancies sanctioned.

6. The learned Counsel for the petitioner would contend that 21 Fitters are available in the Water Authority,

which; looking at the ratio of 5:1 require 105 persons in the Fitter category. The mere fact that there were more persons designated as Head Fitters even in excess of the ratio, would not accrue any right on the rank holder to seek for reporting of vacancies in accordance with the ratio, when what is relevant is the sanction itself.

7. In such circumstance, this Court is of the opinion that no relief can be granted to the petitioner and it is also stated that the rank list expires today. In such circumstance if at all any vacancies exist as on today, the Water Authority shall report the same immediately.

The writ petition would stand dismissed with the above observations.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB/30 /09/2015

// true copy //

P.A to Judge.