

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

WP(C).No. 22907 of 2015 (K)

PETITIONERS:-:

1. RAJESH N K, AGED 39 YEARS
S/O.KORAN
KERALA STATE BEVERAGES (M&M) CORPORATION LTD.
SHOP NO.FL-I:13007, PILATHARA, KANNUR
RESIDING AT KANNUR, KORANTHAT POST, KANNUR - 670 308.
 2. NEEMA C.M. AGED 37 YEARS
D/O.PRABHAKARAN
KERALA STATE BEVERAGES (M&M)CORPORATION LTD.
WAREHOUSE, KANNUR, RESIDING AT SOWBHAGYA
MOONANIRATH P.O., AZHIKKODE, KANNUR.
- BY ADV. SRI.U.BALAGANGADHARAN

RESPONDENTS:-:

1. KERALA STATE BEVERAGES (M&M) CORPORATION LTD
REPRESENTED BY ITS MANAGING DIRECTOR, SASTHAMANGALAM
THIRUVANANTHAPURAM - 695 010.
 2. THE MANAGING DIRECTOR
KERALA STATE BEVERAGES (M&M) CORPORATION LTD.
SASTHAMANGALAM, THIRUVANANTHAPURAM - 695 010.
 3. THE KERALA PUBLIC SERVICE COMMISSION
REPRESENTED BY ITS SECRETARY, PATTAM
THIRUVANANTHAPURAM - 695 004.
- R1-R2 BY ADV. SRI.C.S.AJITH PRAKASH,SC,BEVERAGES CORP
R3 BY SRI.P.C.SASIDHARAN, SC, KPSC

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. TRUE COPY OF ORDER DATED 27.06.2013 ISSUED BY SECOND RESPONDENT.
- EXHIBIT P2. TRUE COPY OF ORDER DATED 19.09.2013 ISSUED BY SECOND RESPONDENT.
- EXHIBIT P3. TRUE COPY OF ORDER DATED 09.03.2015 OF THE SECOND RESPONDENT WITH RELEVANT PAGES OF SCHEDULE APPENDED THERETO.
- EXHIBIT P4. TRUE COPY OF RELEVANT PAGES OF RECRUITMENT RULES OF KERALA STATE BEVERAGES CORPORATION.
- EXHIBIT P5. TRUE COPY OF COMMUNICATION DATED 04.11.2014 OF THE O/O SECOND RESPONDENT UNDER RTI ACT.
- EXHIBIT P6. TRUE COPY OF STATUS REPORT DOWN LOADED FROM OFFICIAL WEB SITE OF THE KERALA PUBLIC SERVICE COMMISSION.
- EXHIBIT P7. TRUE COPY OF COMMUNICATION RECEIVED UNDER RTI ACT DATED 26.06.2015 FROM THE OFFICE OF 2ND RESPONDENT.
- EXHIBIT P8. TRUE COPY OF NOTIFICATION DATED 15.11.2014 ISSUED BY THE THIRD RESPONDENT.
- EXHIBIT P9. TRUE COPY OF REPRESENTATION DATED 24.07.2015 OF THE FIRST PETITIONER.
- EXHIBIT P10. TRUE COPY OF REPRESENTATION DATED 24.07.2015 OF THE SECOND PETITIONER.
- EXHIBIT P11. TRUE COPY OF ORDER OF 2ND RESPONDENT DATED 11.11.2014 (RELEVANT PAGES ONLY)
- EXHIBIT P12. TRUE COPY OF ORDER OF 2ND RESPONDENT DATED 19.5.2015

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 22907 of 2015 (K)

Dated this the 14th day of October, 2015

J U D G M E N T

The petitioners are L.D. Clerks working in the respondent Corporation, who are concerned with the fact that their avenues of promotion are stultified as against the provision available in the Recruitment Rules produced at Ext.P4.

2. The Recruitment Rules indicate that the next promotion post of L.D. Clerks is Assistant Grade II and the same has to be filled up by promotion from qualified L.D. Clerks or by transfer from Typists Grade II in the ratio 5:1. Only if sufficient persons are not available in the feeder category could the Corporation go for direct recruitment.

3. The petitioners' contend that the Corporation has gone for direct recruitment despite the fact that the

petitioners are continued as L.D. Clerks and have more than two years experience, with their probation completed. The Corporation, without resorting to the Recruitment Rules, is by-passing the claim of the feeder category employees to take persons from the open market by direct recruitment.

4. Admittedly, the vacancies were reported to the Public Service Commission, which according to the learned Standing Counsel for the Corporation, was done at a stage when there was no eligible qualified hands. The reported vacancies, hence, necessarily has to be filled up as per the selection procedure initiated by the Public Service Commission. However, there is a contention that there are other posts remaining vacant which are to be considered for promotion from the feeder category employees.

5. In such circumstance, suffice it to direct the Corporation not to report any more vacancies other than

NJD vacancies, to the post of Assistant Grade-II, until the qualified hands are considered for promotion.

The writ petition would stand disposed of with the above direction.

Sd/-
K.VINOD CHANDRAN,
JUDGE