

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 23186 of 2014 (W)

PETITIONER(S)/PETITIONERS:-:

1. PREMLAL L.L
WAITER ON CONTRACT, MASCOT HOTEL, P.M.G.
MASCOT SQUARE, THIRUVANANTHAPURAM - 695 033.
2. BINU P.M.,
A/C.MECHANIC (CONTRACT), BOLGATTY PALACE HOTEL
MULAVUKAD P.O., ERNAKULAM.
3. PRASANTH T.,
WAITER ON CONTRACT, MASCOT HOTEL, MASCOT SQUARE
P.M.G., THIRUVANANTHAPURAM - 695 033.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENT(S)/RESPONDENTS:-:

1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT
DEPARTMENT OF TOURISM, SECRETARIAT
THIRUVANANTHAPURAM - 695 001.
2. KERALA TOURISM DEVELOPMENT CORPORATION LTD.,
REPRESENTED BY MANAGING DIRECTOR, MUSCOT SQUARE
THIRUVANANTHAPURAM - 695 033.
3. MANAGING DIRECTOR,
KERALA TOURISM DEVELOPMENT CORPORATION LTD.
MUSCOT SQUARE, THIRUVANANTHAPURAM - 695 033.

Addl.4. V.KANGARAJ
SON OF VELUSAMY
WORKING IN THE KERALA TOURIST
DEVELOPMENT CORPORATION RESORT
TEA COUNTRY, ON CONTRACT BASIS
RESIDING AT PALLIVASAL ESTATE, PUTHUKAD DIVISION
MUNNAR, IDUKKI - 685 512.

Addl.5. VINOD C.M
WORKING IN THE KERALA TOURIST
DEVELOPMENT CORPORATION RESORT
TEA COUNTRY, ON CONTRACT BASIS
RESIDING AT CHIRAYIL HOUSE, CMC 1, CHERTHALA
ALAPPUZHA DISTRICT.

Addl.6. SHANAVAS E.S
WORKING IN PERIYAR HOUSE, THEKKADY
KERALA TOURIST DEVELOPMENT CORPORATION ON CONTRACT BASIS
ESIDING AT EDAKKANDAN HOUSE, KARINILAM PO., PULIKKUNNU
KOTTAYAM DISTRICT.

.2.

Addl.7. THOMAS KURIAN
WORKING IN THE ARANYA NIVAS, THEKKEDY
KERALA TOURIST DEVELOPMENT CORPORATION ON CONTRACT BASIS
RESIDING AT KALANKUZHIYIL HOUSE, THANKAMANY PO.
IDUKKI DISTRICT.

Addl.8. SHINTO SATHEYAN
WORKING IN THE RAIN DROPS
KERALA TOURIST DEVELOPMENT CORPORATION ON CONTRACT BASIS
RESIDING AT SHADOW HOUSE, KOLAYAD PO
KANNUR - 670 650.

Addl.9. VIKAS NOBI M.R
WORKING IN THE WATER SCAPES, KUMARAKOM
KERALA TOURIST DEVELOPMENT CORPORATION ON CONTRACT BASIS
RESIDING AT MAMARAM KUNNEL HOUSE, THOTTAKOM PO.
VAIKOM, KOTTAYAM DISTRICT.

Addl.10. GIRISH T.P
WORKING IN THE WATER SCAPES, KUMARAKOM
KERALA TOURIST DEVELOPMENT CORPORATION ON CONTRACT BASIS
RESIDING AT THIRUMANGALATHU HOUSE, PERUMTHURUTHU PO.
KALLARA, KOTTAYAM DISTRICT.

Addl.11. MOBIN KUMAR C.M
WORKING IN THE KERALA TOURIST DEVELOPMENT CORPORATION
ALAPPUZHA, ON CONTRACT BASIS
RESIDING AT CHULLIKAD HOUSE, VADAKUMPURAM PO
ERNAKULAM DISTRICT.

Addl.12. PRAMOD K
WORKING IN THE KERALA TOURIST DEVELOPMENT CORPORATION LTD.
KOLLAM ON CONTRACT BASIS
RESIDING AT PRINCE BHAVANAM, KADAPPA SOUTH
MYNAGAPPALLY PO., KOTTALAM - 690 519.

Addl.13. DINESH RAJ B.S
WORKING IN THE GOLDEN PEAK, PONMUDY
KERALA TOURIST DEVELOPMENT CORPORATION ON CONTRACT BASIS
RESIDING AT SAROJA VILASOM, ANAPPARA
KUDAPPANAMOODU PO., THIRUVANANTHAPURAM - 695 510.

Addl.14. PRAVEEN M.H
WORKING IN THE MOTEL ARAM, VAIKOM
KERALA TOURIST DEVELOPMENT CORPORATION LTD.
ON CONTRACT BASIS, RESIDING AT MUTHALANGA HOUSE
OKKAL PO., THANNIPUZHA, PIN - 683 550
ERNAKULAM DISTRICT.

Addl.15. RAJEEV K.R
WORKING IN THE WATER SCAPES, KUMARAKOM
KERALA TOURIST DEVELOPMENT CORPORATION LTD.
ON CONTRACT BASIS, RESIDING AT KANJIRATHINGAL HOUSE
KOOROPPADA PO., KOTTAYAM DISTRICT - 686 502.

Addl.16. SAJEEV R
WORKING IN THE SAMUDRA HOTEL
KERALA TOURIST DEVELOPMENT CORPORATION
KOVALAM ON CONTRACT BASIS, RESIDING AT ANIZHAM HOUSE
NARANI, KUNNATHUKAL PO., NEYYANTTINKARA
THIRUVANANTHAPURAM.

Addl.17. RADHAKRISHNAN S.R
WORKING IN THE SAMUDRA HOTEL
KERALA TOURIST DEVELOPMENT CORPORATION

.3.

KOVALAM ON CONTRACT BASIS
RESIDING AT ASWATHY BHAVAN, MANALI, VENGANNOOR PO
THIRUVANANTHAPURAM DISTRICT.

Addl.18. DEVARAJ V.M
WORKING IN THE MASCOT HOTEL
KERALA TOURIST DEVELOPMENT CORPORATION
THIRUVANANTHAPURAM ON CONTRACT BASIS
RESIDING AT SREEKANCHARAM, CMC 23, CHERTHALA PO
ALAPPUZHA - 688 524.

Addl.19. SHIJI KUMAR B
WORKING IN THE SAMUDRA HOTEL KOVALAM
KERALA TOURIST DEVELOPMENT CORPORATION
THIRUVANANTHAPURAM ON CONTRACT BASIS
RESIDING AT MURUGA VILASAM, ERAPPAKANI, VALATHANKARA
CHENKAL PO., THIRUVANANTHAPURAM - 695 132.

Addl.20. SUDHI I
WORKING IN THE MASCOT HOTEL
KERALA TOURIST DEVELOPMENT CORPORATION
THIRUVANANTHAPURAM ON CONTRACT BASIS
RESIDING AT VAROOR HOUSE, KULAPPA DAM, NEDUMPANA PO.
KOLLAM - 691 576.

Addl.21. RACHANA C.R.
WORKING IN THE CHAITHRAM HOTEL
KERALA TOURIST DEVELOPMENT CORPORATION
THIRUVANANTHAURAM ON CONTRACT BASIS
RESIDING AT "AMBALAYAM", GSS NRA -218, NCC ROAD
AMBALAMUKKU, PEROORKADA PO.
THIRUVANANTHAPURAM - 695 005.

Addl.22. LEENA KRISHNAN S.K
WORKING IN THE SAMUDRA HOTEL
KERALA TOURIST DEVELOPMENT CORPORATION, KOVALAM
THIRUVANANTHAPURAM ON CONTRACT BASIS
RESIDING AT MUKKIL VEEDU, ARIKKADAMUKKU, NEMOM PO
THIRUVANANTHAPURAM - 20.

Addl.23. SAJEEVAN T.P
WORKING IN THE MALABAR MANSION
KERALA TOURIST DEVELOPMENT CORPORATION
KOZHIKODE ON CONTRACT BASIS
RESIDING AT KUNHOTH HOUSE, KOOTHALI PO.
PERAMBRA (VIA), KOZHIKODE DISTRICT.

Addl.24. JAGEESH K.B
WORKING IN THE TAMARIND EASY HOTEL
KERALA TOURIST DEVELOPMENT CORPORATION
THIRUNELLY ON CONTRACT BASIS
RESIDING AT KUNIYIL HOUSE, AYANIKKAD PO.
KRINGAL (VIA), KOZHIKODE - 673 521.

Addl.25. PRASAD K
WORKING IN THE MOTEL ARAAM
KERALA TOURIST DEVELOPMENT CORPORATION
MANGATTUPARAMBA ON CONTRACT BASIS
RESIDING AT KUNNUMMAL HOUSE, CHEPPARAMBA
NEDIYANGA PO., SREEKANDAPURAM, KANNUR - 670 631.

Addl.26. AJIKUMAR P.S
WORKING IN THE KERALA TOURIST
DEVELOPMENT CORPORATION LIMITED
KOTTARAKKARA, ON CONTRACT BASIS

.4.

RESIDING AT KANJIRAMVILA VEEDU, KARUVELIL PO.
EZHUKONE (VIA), EDAVATTOM, KOLLAM DISTRICT - 691 505.

Addl.27. SUBASH V.
WORKING IN THE KERALA TOURIST
DEVELOPMENT CORPORATION LIMITED
KOTTARAKKARA ON CONTRACT BASIS
RESIDING AT PERUMKULAM PO, KOTTARAKKARA
KOLLAM - 691 506.

Addl.28. SIVAKUMAR M
WORKING IN THE KERALA TOURIST DEVELOPMENT CORPORATION LTD.
KOTTARAKKARA ON CONTRACT BASIS
RESIDING AT KOCHU PADINJATTATHIL HOUSE
CHENGAMANADU PO., KOTTARAKKARA, KOLLAM - 691 557.

Addl.29. SOJI T.M
WORKING IN THE KERALA TOURIST DEVELOPMENT CORPORATION LTD.
PERIYAR HOUSE, THEKKEDY ON CONTRACT BASIS
RESIDING AT THAIPARAMBIL HOUSE, C.M.24, CHERTHALA PO.
CHERTHALA - 688 524.

Addl.30. RADHAKRISHNAN K
WORKING IN THE HOTEL CHAITHRAM AS RECEPTIONIST
WORKING IN THE KERALA TOURIST DEVELOPMENT CORPORATION LTD
ON CONTRACT BASIS, RESIDING AT PUNUKKANNOOR
PERUMPUZHA PO., KUNDARA, KOLLAM DISTRICT.

Addl.31. SARATH MOHAN M.A
WORKING IN THE HOTEL CHAITHRAM
KERALA TOURIST DEVELOPMENT CORPORATION LTD.
ON CONTRACT BASIS, THIRUVANANTHAPURAM
RESIDING AT TC 54/1841, PAPPANAMCODE PO.
THIRUVANANTHAPURAM DISTRICT.

Addl.32. JOSHITH U.R
WORKING IN THE KERALA TOURIST DEVELOPMENT CORPORATION LTD.
ON CONTRACT BASIS, RESIDING AT UNICHATHUKANDY HOUSE
AYANIKKAD PO., IRINGAL (VIA), PIN - 673 521.

Addl.33. SAJITH SINGH B.S
WORKING IN THE RAIN DROPS
KERALA TOURIST DEVELOPMENT CORPORATION LTD.
GREENS ROAD, CHENNAI, ON CONTRACT BASIS
RESIDING AT SARADA NILAYAM, NELLIVILA PO, VENGANNOOR
THIRUVANANTHAPURAM DISTRICT, PIN - 695 523. ADDL.R4 TO R33 ARE
IMPLEADED AS PER ORDER DATED 03.03.2015 IN IA 3228/15.
R2-R3 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL, SC, KTDC
R(ADDL.) BY ADV. SRI.S.M.PRASANTH(ADDL.)
R(ADDL.) BY ADV. SRI.K.RAMAKUMAR (SR.)
R(ADDL.) BY ADV. SMT.AMMU CHARLES
R(ADDL.) BY ADV. SMT.ASHA BABU
R(ADDL.) BY ADV. SRI.G.RENJITH
R(ADDL.) BY ADV. SMT.JINNU SARA GEORGE
R BY SRI.A.K.JOHN (SPL.G.P. TOURISUM)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
04-03-2015, ALONG WITH WPC. 5904/2011 AND CONNECTED CASES THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 23186 of 2014 (W)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1. TRUE COPY OF THE ADVERTISEMENT MADE BY THE KTDC IN THE YEAR 2003 WHICH WAS PUBLISHED IN MALAYALA MANORAMA DAILY.
EXHIBIT P2. TRUE COPY OF THE ADVERTISEMENT MADE BY THE KTDC IN THE YEAR 2004 WHICH WAS PUBLISHED IN MATHRUBHUMI DAILY.
EXHIBIT P3. TRUE COPY OF THE MEMO DATED 13.02.2004 ISSUED TO THE 1ST PETITIONER.
EXHIBIT P4. TRUE COPY OF THE APPOINTMENT ORDER DATED 28.02.2004 PERTAINING TO PETITIONER NO.1.
EXHIBIT P5. TRUE COPY OF THE APPOINTMENT ORDER DATED 31.01.2006 PERTAINING TO THE 2ND PETITIONER.
EXHIBIT P6. TRUE COPY OF THE APPOINTMENT ORDER DATED 22.01.2005 PERTAINING TO THE 3RD PETITIONER.
EXHIBIT P7. TRUE COPY OF THE APPOINTMENT ORDER DATED 03.05.2014 PERTAINING TO THE 1ST PETITIONER.
EXHIBIT P8. TRUE COPY OF THE APPOINTMENT ORDER DATED 26.02.2014 PERTAINING TO THE 2ND PETITIONER.
EXHIBIT P9. TRUE COPY OF THE APPOINTMENT ORDER DATED 14.03.2014 PERTAINING TO THE 3RD PETITIONER.
EXHIBIT P10. TRUE COPY OF THE NOTICE OF THE KTDC.
EXHIBIT P11. TRUE COPY OF THE ORDER DATED 24.02.2011 IN W.P.(C) NO.5904/2011.
EXHIBIT P12. TRUE COPY OF THE LIST OF EMPLOYEES ON CONTRACDT BASIS CONSIDERED FOR REGULARISATION.
EXHIBIT P13. TRUE COPY OF THE MINUTES OF THE 263RD MEETING OF THE BOARD OF DIRECTORS OF KTDC ON 07.12.2010 ALONG WITH THE LIST OF 60 PERSONS.
EXHIBIT P14. TRUE COPY OF THE REPRESENTATION DATED 11.08.2014 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 1ST RESPONDENT.
EXHIBIT P15. TRUE COPY OF THE REPRESENTATION DATED 11.08.2014 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 3RD RESPONDENT.
EXHIBIT P16. TRUE COPY OF THE REPRESENTATION DATED 09.08.2014 SUBMITTED BY THE 2ND PETITIONER BEFORE THE 1ST RESPONDENT.
EXHIBIT P17. TRUE COPY OF THE REPRESENTATION DATED 09.08.2014 SUBMITTED BY THE 2ND PETITIONER BEFORE THE 3RD RESPONDENT.
EXHIBIT P18. TRUE COPY OF THE REPRESENTATION DATED 09.08.2014 SUBMITTED BY THE 3RD PETITIONER BEFORE THE 1ST RESPONDENT.
EXHIBIT P19. TRUE COPY OF THE REPRESENTATION DATED 09.08.2014 SUBMITTED BY THE 3RD PETITIONER BEFORE THE 3RD RESPONDENT.

RESPONDENT(S) ' EXHIBITS

EXT.R2(A): TRUE COPY OF AGREEMENT EXECUTED BY THE 1ST PETITIONER.
EXT.R2(B): COPY OF AGREEMENT EXECUTED BY THE 2ND PETITIONER.
EXT.R2(C): COPY OF AGREEMENT EXECUTED BY THE 3RD PETITIONER.
EXT.R2(D): COPY OF LETTER DATED 17/12/2010 SENT TO THE GOVT FOR APPROVAL TO REGULARIZE THE SERVICE OF 61 EMPLOYEES WORKING ON CONTRACT BASIS.
EXT.R2(E): COPY OF THE LETTER DATED 1/6/2012 ISSUED BY THE GOVERNMENT.

/TRUE COPY/

PS TO JUDGE.

A.MUHAMED MUSTAQUE, J.

**W.P.(C) Nos. 5904 & 21965 of 2011,
14320/2013 & 23186 of 2014**

Dated this the 4th day of March, 2015

JUDGMENT

These writ petitions pertain to regularisation of employees who are working on contract basis in KTDC as waiter, assistant, cook, receptionist, driver, data entry operator, etc. On 7/12/2010, the KTDC's Director Board passed a resolution taking a decision to regularise those employees, who were working on contract basis under different categories for more than 3 years as on December 2010. This was challenged by an former employee of the KTDC by filing W.P. (C) No.5904/2011. This court passed an interim order in that writ petition, which reads as follows:

“There would be an interim order to the effect that no temporary/contract employee of the 2nd respondent shall be regularised in service unless they have been selected in the first instance after a selection process in which notification inviting applications was published at least in one news paper,

until further order. "

2. Initially decision was taken by the Board to regularise 61 employees. Petitioners in W.P.(C) No.23186/2014, 21965/2011,14320/2013 & W.P.(C) No.5904/2011 were included among 61 employees ordered to be regularised by the Board. Thereafter, pursuant to the interim direction of this Court in W.P.(C) No.5904/2011, the list was prepared as directed by the Government. Only 38 candidates are included in the list. The writ petitioners in W.P.(C) Nos.21965/11, & 14320/2013 were included among the 38 candidates. They approached this Court on account of non implementation of the decision of the Board to regularise 38 employees.

3.The petitioners in W.P.(C) No.23186/2014 approached this Court challenging the decision of the Board to regularise only 38 candidates. They aggrieved by the exclusion of them from regularisation.

4. Certain other persons also got impleaded in some of the matters opposing regularisation. Since they have not challenged regularisation their objection cannot be entertained while deciding these writ petitions.

5. By an interim order dated 29/10/2014, this Court

interdicted the regularisation. Therefore, the entire regularisation process stands stayed. There is no issue now for the writ petitioners in W.P.(C) No. 5904/2011 in disposing the matter in the light of the interim order. Therefore, the only question is whether the petitioners in W.P.(C) Nos.23186/2014 are also satisfy the criteria adopted by the Corporation pursuant to the direction of this Court to regularise those employees, who have underwent selection process based on the notification published in the news papers. It is to be noted that this court did not fix any criteria for publishing or for selection. The direction of this Court is only to consider those candidates, who have been selected, by a transparent process. The petitioners in W.P.(C) No.23186/2014 relies on Exts.P1 and P2 and submits that there was notification inviting application to the post for which they were appointed. It is submitted that petitioners were interviewed and they were selected pursuant to the duly constituted selection process.

6. In the counter affidavit, filed before this Court in W.P. (C) No.23186/2014 by respondents 2 and 3 , in paragraph 7 it is stated as follows:

"7. Further it is seen from the call letters

produced by the petitioners who are continuing in service, that they were called for interview on 19/2/2004 on the basis of the notification in the news paper on 4/10/2003 with box No. TD 865 and on 18/11/2004 on the basis of the notification in the news paper dated 19/8/2004 with Box No. 634."

However, the Corporation in paragraph 9 of the counter says that the list of 38 candidates were prepared on the basis of the request from the Government as per the letter dated 1/6/2012 to furnish the names of the persons included in the proposal for regularization of service, who were selected in the first time after a selection process in which notification inviting application was published in two leading newspapers. It is not known whether the notification inviting the application to the post, in which the petitioners in W.P.(C)No.23186/2014 are to be regularised, has been published in the two leading news papers or not. Even if it was published only in one news paper, if otherwise selection process were conducted, necessarily the petitioners in W.P.(C) NO.23186/2014 are entitled to be included. Merely, for the reason that publication was not taken out in two news papers, benefit of regularisation cannot be denied to the petitioners.

7. In view of the above facts, I am of the view that the the respondent-Kerala Tourism Development Corporation Ltd. has to consider the claim of the writ petitioners in W.P. (C) No.23186/2014 for regularization, if they were appointed pursuant to the selection process conducted pursuant to the publication in the newspaper. If they were selected pursuant to a notification, necessarily they will have to be included in the list.

8. The learned counsel Sri.M.K.Chandra Mohan Das appearing for the petitioners in W.P.(C) No.21965/2011 submits that even though the writ petition was filed in the year 2011, on account of the interim order and subsequent events, the petitioners have been denied the benefits of regularisation. In view of the above submission of the learned counsel, there shall be direction to the Corporation to implement its decision to regularise the employees forthwith. The writ petitions are disposed of in the following terms;

1). The respondent-Corporation shall take immediate steps to regularise all 38 employees ordered to be regularised as per Ext.P12 list produced in W.P.(C) No.23186/-2014.

2. The Corporation shall take a decision in the matter of regularisation of the petitioners in W.P.(C) No.23186/2014 after verifying whether they have responded to the notification published in one of the dailies in Kerala. If the petitioners have been appointed pursuant to the notification published in the newspaper and after undergoing selection process, necessarily they should also be absorbed along with others. After being regularised, the petitioners shall be given due seniority. Needful shall be done within four weeks from the date of receipt of a copy of this judgment.

The writ petitions are disposed of with the above directions.

Sd/-

**A.MUHAMED MUSTAQUE,
Judge.**

dpk

/true copy/ PS to Judge.

