

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

WP(C).No. 28575 of 2012 (V)

PETITIONER(S):

**RASHEEDA BEEVI, AGED 56 YEARS
STENO GRAPHER, W/O.MUHAMMED KUNJU, KERALA STATE DRUGS
AND PHARMACEUTICALS LIMITED, KALAVOOR, ALAPPUZHA**

**BY ADVS.SRI.S.SANAL KUMAR
SMT.BHAVANA VELAYUDHAN
SMT.T.J.SEEMA**

RESPONDENT(S):

- 1. KERALA STATE DRUGS AND PHARMACEUTICALS LIMITED
REPRESENTED BY ITS MANAGING DIRECTOR
KALAVOOR ALAPPUZHA 688522**
- 2. KERALA PUBLIC SERVICE COMMISSION
REPRESENTED BY ITS SECRETARY PATTOM
THIRUVANANTHAPURAM 695004**
- 3. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO
THE DEPARTMENT OF INDUSTRIES GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM 695001**

**R1 BY ADV. SMT.K.V.RESHMI
R2 BY SRI.P.C.SASIDHARAN, SC, KPSC
R3 BY GOVERNMENT PLEADER SRI.T.R.RAJESH**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

WP(C).No. 28575 of 2012 (V)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT.P1	COPY OF THE APPOINTMENT ORDER DATED 8.9.1982
EXT.P2	COPY OF THE APPOINTMENT ORDER DATED 5.6.1989
EXT.P3	COPY OF THE G.O.P.NO.479/1986 FIN. DATED 11.7.1986
EXT.P4	COPY OF THE G.O.P.NO.281/1989(256)FIN. DATED 6.6.1989
EXT.P5	COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 14.6.1989
EXT.P6	COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 19.7.1994
EXT.P7	COPY OF THE REPRESENTATION DATED 30.6.2011 SUBMITTED BEFORE THE MINISTER FOR INDUSTRIES
EXT.P8	COPY OF THE REPRESENTATION DATED 22.12.2011 SUBMITTED BEFORE THE CHIEF MINISTER
EXT.P9	COPY OF THE COMMUNICATION OF THE PRIVATE SECRETARY OF THE CHIEF MINISTER
EXT.P10	COPY OF THE COMMUNICATION OF THE FIRST RESPONDENT DATED 21.3.2012
EXT.P11	COPY OF THE COMMUNICATION OF THE THIRD RESPONDENT DATED 4.9.2012

RESPONDENT(S)' EXHIBITS :

NIL

/TRUE COPY/

PA TO JUDGE

VS

K.VINOD CHANDRAN, J.

W.P.(C).No.28575 of 2012

Dated this the 20th day of November, 2015

JUDGMENT

The petitioner claims reckoning of her prior service from 13.09.1982 to 05.06.1989, in the first respondent Company, which is a wholly owned Government company, wherein the provisions of Kerala Service Rules are adopted.

2. The petitioner contends that she had been provisionally appointed as a Stenographer on 13.09.1982 and was continued for about 7 years till 05.06.1989, when she was regularised. The petitioner also contends that for granting increments, she is entitled to have reckoned, the provisional service, as is indicated in Exts.P3 and P4. The petitioner's claim was rejected as per Ext.P11 which is impugned here.

3. Heard the learned Government Pleader and also the Standing Counsel representing the first

respondent.

4. The first respondent has a contention that the petitioner had not been continued provisionally, in the first respondent Company and had been continued only on the strength of an interim order passed in a writ petition, by this Court. Though the specific number of the writ petition is not stated, there is no reply and hence no controversion of such averment, placed on record by the first respondent.

5. If that be so, the petitioner's appointment cannot be said to be under Rule 9(a)(i) of the Kerala State and Subordinate Services Rules, 1958. The petitioner admittedly was appointed on a consolidated pay and her continuance on the strength of an interim order of this Court was also on such consolidated pay. The petitioner's appointment on 05.06.1989 was by way of regular recruitment and there was no regularisation of the earlier period of engagement.

6. A Division Bench of this Court in ***State of Kerala v. P.K.Satheesan*** reported in ***2005(3)KLJ 539***

considered the effect of deletion of decision No.2 under Rules 33 Part I of Kerala Service Rules. The Division Bench found that the same having been deleted with effect from 01.10.1994, there is no provision in the statute for considering the provisional service as officiating service. The clear finding of the Division Bench was that at the time when an employee claims for reckoning the service, the provision should have been available. Admittedly, the petitioner claimed for reckoning such service only later, by way of Ext.P7 in the year 2011, when the said provision was no longer available in the Rules.

7. Further in ***Satyapalan v. Deputy Director of Education*** reported in **1998 (1) KLR 399** this Court speaking on decision No.2 Rule 33 of the Kerala Service Rules, found that two conditions are to be satisfied for such reckoning of service. One is that the provisional service should have been regularised and two that the provisional service should be followed by a regular appointment in the same category. Though in the present case, the second condition is satisfied, there is no

regularisation effected of the earlier service. The earlier service as has been indicated as above was on a consolidated pay and had been only on the strength of the interim order passed by this Court.

The writ petition hence would stand dismissed.

No costs.

Sd/-
K.VINOD CHANDRAN
JUDGE

VS