

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

WP(C).No. 25054 of 2014 (F)

PETITIONER(S):

1. V.MOHANDAS, S/O VELAYUDHAN, AGED 60 YEARS,
RESIDING AT CHITRALAYAM, NEDUMPALLAM,
VENGODI PO., ELAPPULLY, PALAKKAD DIST.

2. K. RADHAKRISHNAN, S/O KESAVAN, AGED 39 YEARS.
RESIDING AT THOTTUMPULLY HOUSE, THENARI PO.,
PALAKKAD DISTRICT

BY ADVS.SRI.T.C.SURESH MENON
SRI.P.S.APPU
SRI.A.R.NIMOD
SRI.SANIL JOSE

RESPONDENT(S):

1. THE DISTRICT LABOUR OFFICER, CIVIL STATION,
PALAKKAD -678001

2. THE ASSISTANT LABOUR OFFICER, 2ND CIRCLE,
PALAKKAD-678 001

3. MALABAR DISTILLERIES LIMITED, MENON PARA,
ELAPPULLY PANCHAYATH, PALAKKAD-678 622
REP. BY ITS MANAGING DIRECTOR

4. THE KERALA STATE BEVERAGES CORPORATION,
MENONPARA, ELAPPULLY PANCHAYATH,
PALAKKAD-678 622, REP. BY ITS MANAGER.

BY ADV. SRI.K.ANAND (SR.)
BY ADV. SMT.LATHA KRISHNAN
BY GOVERNMENT PLEADER SRI. R. RANJITH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18-02-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1-TRUE COPY OF THE REQUEST MADE BY THE 1ST PETITIONER BEFORE
R1 DATED 22.3.13

EXHIBIT-P2-TRUE COPY OF THE APPLICATIONS ALONG WITH A COVERING
LETTER SUBMITTED BY THE 2ND PETITIONER BEFORE R2 DATED 22.8.14

EXHIBIT-R2(a)-A TRUE PHOTOSTAT COPY OF THE ORDER DATED 10.5.2013

EXHIBIT-R2(b)- A TRUE COPY OF THE ORDER NO.HL-61/14-68/14 DATED
1.11.2014

//True Copy//

P.A. To Judge

K.VINOD CHANDRAN, J

W.P.(C).No. 25054 of 2014

Dated 18th February, 2015

JUDGMENT

The petitioners have filed the above writ petition praying that Ext.P1 representation and Ext.P2 series of applications be directed to be considered. The representation at Ext.P1 is one made by a Union seeking consideration of 16 of its members for enrollment as head load workers and registration under Rule 26A of the Head Load Workers Rules 1981 (Kerala), (for short 'the Rules'). Ext.P2 are the individual applications made under Rule 26A by some of the workers indicated in Ext.P1. The 1st petitioner is the President of the Union and the 2nd petitioner is one of the workers.

2. The 2nd respondent has filed a counter affidavit wherein Exts.R2(a) and R2(b) orders are produced. The contention raised in the counter

affidavit is that, the individual applications have been rejected for valid reasons and a statutory remedy is available. The representation too stands disposed of by Ext.R2(a), is the specific contention in the counter affidavit.

3. The learned counsel for the petitioners, however, would contend that Ext.R2(a) is not in disposal of the representation at Ext.P1 nor were they heard.

4. It is to be noticed that Ext.P1 is not a statutory application. Statutory applications at Ext.P2 series stand rejected by Ext.R2(b) order. Ext.P1 representation also seeks consideration of those workers whose applications are rejected by Ext.R2(b). Hence, rejection of Ext.P2 series of applications would have to be taken up in an appropriate statutory appeal.

5. True, Ext.R2(a) does not specifically

refer to the representation at Ext.P1. However, the issue, with respect to the enrollment of head load workers under the Act and the Rules, was specifically considered. A reading of Ext.R2(a) indicates that, conciliation was also called for, of the respective Unions and it was after that, the District Labour Officer directed 25 employees to prefer applications for registration under Rule 26A. Though Ext.P1 is not specifically referred to, Ext.R2(a) would be an answer to the claims raised in Ext.P1 also. If the Union or its members are aggrieved by Ext.R2(a), then that has to be challenged in an appropriate proceeding.

The writ petition would stand dismissed, leaving open the remedies available against the orders produced at Exts.R2(a) and R2(b).

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

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