

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 28350 of 2011 (P)

PETITIONER:

**VINOD VISWAM,
VISMAYA, ADIMALI, IDUKKI DISTRICT.**

BY ADV. SRI.P.NANDAKUMAR

RESPONDENT(S):

- 1. KERALA HEAD LOAD WORKERS WELFARE BOARD,
S.R.M.ROAD, ERNAKULAM, KOCHI-682 018
REPRESENTED BY THE CHIEF EXECUTIVE.**
- 2. THE CHAIRMAN,
KERALA HEAD LOAD WORKERS WELFARE BOARD, ADIMALI
IDUKKI DISTRICT-685 561.**
- 3. M/S.SHALINI RAJAN,
LOWER DIVISION CLERK, KERALA HEAD LOAD WORKERS
WELFARE BOARD, ADIMALI-685 561.**

**R1 & R2 BY ADV. SRI.KOSHY GEORGE, SC, KHLWWB
R1 & R2 BY ADV. SRI.TPM.IBRAHIM KHAN (SR.)
R1 & 2 BY ADV. SRI.P.M.M.NAJEEB KHAN, SC, KHWWB**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

SKV

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1:TRUE EXTRACT OF GENERAL LEDGER FOR THE YEAR 2002.

EXT.P2:TRUE EXTRACT OF GENERAL LEDGER FOR THE YEAR 2003.

EXT.P3:TRUE EXTRACT OF GENERAL LEDGER FOR THE YEAR 2004.

EXT.P4:TRUE EXTRACT OF GENERAL LEDGER FOR THE YEAR 2005.

EXT.P5:TRUE EXTRACT OF GENERAL LEDGER FOR THE YEAR 2006.

EXT.P6:TRUE EXTRACT OF GENERAL LEDGER FOR THE YEAR 2007.

EXT.P7:TRUE EXTRACT OF GENERAL LEDGER FOR THE YEAR 2008.

EXT.P8:TRUE EXTRACT OF GENERAL LEDGER FOR THE YEAR 2009.

EXT.P9:TRUE EXTRACT OF GENERAL LEDGER FOR THE YEAR 2010.

EXT.P10:TRUE EXTRACT OF GENERAL LEDGER FOR THE YEAR 2011.

RESPONDENTS EXHIBITS: NIL

/TRUE COPY/

P.A. TO JUDGE

SKV

C.K.ABDUL REHIM, J.

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W.P.(C). No. 28350 OF 2011

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Dated this the 19th day of March, 2015

JUDGMENT

The petitioner herein is seeking a declaration that termination of his service from the post of Lower Division Clerk under the 1st respondent Board for accommodating the 3rd respondent, is illegal and arbitrary. Inter alia, the petitioner is seeking direction to the respondents 1 and 2 to regularise his service in the post of Lower Division Clerk.

2. Claim of the petitioner is that he was appointed as Lower Division Clerk (LDC) in the Munnar Office of the 1st respondent Board during February 2000 and he was transferred to the Adimali office in November, 2000. It is contended that he had continuous service as under the respondents as LDC from February 2000 onwards. According to the petitioner, at the time when he was appointed as LDC there were no Rules regulating method of appointment in the 1st respondent Board. For the first time selection through Kerala Public Service Commission was introduced only during the year 2006. It is complained that the

petitioner was terminated with effect from 22.9.2011, without any notice. It is aggrieved by such action the writ petition is filed.

3. In the counter affidavit filed on behalf of respondents 1 and 2 it was emphatically denied that the petitioner was appointed as LDC in the 1st respondent Board. Specific contention was that no such appointment was made with respect to the petitioner at any point of time. However it was conceded that the petitioner might have been engaged purely on a temporary basis, depending on the requirement, as the practice followed in the unit offices the 1st respondent Board was to engage persons on casual basis depending on requirement, by the head of such units. Since the petitioner was never appointed as LDC in the 1st respondent Board, he cannot challenge the alleged termination nor can he seek for regularisation in the service of the Board, is the contention raised.

4. Along with the reply affidavit filed by the petitioner Exts.P1 to P10 documents were produced, which are copies of general ledger kept in the Adimali Unit Office

of the 1st respondent Board. It is contended that the petitioner had signed as general ledger Clerk in all the registers which would indicate that the petitioner was continuously working under the 1st respondent Board.

5. Evidently, claim of the petitioner with respect to his appointment as a regular LDC in the 1st respondent Board, is not at all substantiated through any documents. There is also no documents produced to show that he was terminated from such service at any point of time. On the other hand facts enumerated would probabalise the contention of the respondents 1 and 2 that the petitioner might have been engaged on temporary basis, depending on requirement of the work. However, fact that appointment through PSC was introduced in the Board only during the year 2006 is not in dispute. It is not discernible as to whether regular employees were appointed in the Board prior to the year 2006 on a permanent basis. Whatever that be, if the petitioner had any claim that he is eligible to be considered for regularization based on the temporary/casual service rendered by him, it is for him to

approach the appropriate authority in the Board seeking for such regularisation. If any such approach is made it will be left open to the 1st respondent Board to take an appropriate decision depending on the nature of engagement with respect to the petitioner and also depending on the settled legal position on the aspect of regularisation. Since no claim of the petitioner for regularisation is established before this court, it is not possible for this court to appreciate sustainability of any such claim.

6. Under the above mentioned circumstances the writ petition is dismissed by reserving liberty to the petitioner to approach the competent authority in the 1st respondent Board seeking regularisation if any, to the extent permissible under law.

C.K.ABDUL REHIM, JUDGE

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