

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No. 29297 of 2010 (J)

PETITIONER(S):

K.GOURI, REESHA NIVAS,
PAPPINESSERY P.O., KANNUR DISTRICT.

BY ADV. SRI.BINDU SREEKUMAR

RESPONDENT(S):

1. KELTRON CRYSTALS LTD.,
REPRESENTED BY EXECUTIVE DIRECTOR.

2. KELTRON CRYSTALS LTD.,
REPRESENTED BY GENERAL MANAGER, KELTRON NAGAR
KALLIASSERY P.O., KANNUR DISTRICT.

BY ADV. SRI.T.P.KELU NAMBIAR (SR.)
BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT P1 : TRUE COPY OF THE JUDGMENT IN ORIGINAL PETITION
9895/1985 DATED 03.11.1987

EXT P2 : TRUE COPY OF THE JUDGMENT IN O.P.NO.386/88 DATED
22.10.1991

EXT P3 : TRUE COPY OF THE REQUEST LETTER DATED 12.07.1991

EXT P4 : TRUE COPY OF THE JUDGMENT DATED 05.10.1998

EXT P5 : TRUE COPY OF THE REPRESENTATION DTD 19.09.96

EXT P6 : TRUE COPY OF THE REPRESENTATION DTD 09.01.1998

EXT P7 : TRUE COPY OF THE AWARD DTD 21.10.2003

EXT P8 : TRUE COPY OF THE REMAINDER DTD 23.12.2008

RESPONDENTS' EXHIBITS:NIL

True Copy/

P A to Judge

A.MUHAMED MUSTAQUE, J.
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W.P(C).No.29297 of 2010
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Dated this the 12th day of February, 2015

JUDGMENT

Petitioner retired from the service of Keltron Crystals Ltd. on 28.02.2009. Petitioner approached this Court seeking a relief to regularize the period of service from 1983 to 1999 and to grant monetary benefits consequent upon regularization. Petitioner also seeks notional promotion from the date on which her immediate junior were promoted in 1983 and refix the salary, pensionary benefit like eligibility and disburse the amount due on such refixation of pay scale and grade.

2. Petitioner's claim is that she is a science graduate with ITI Certificate. There are two promotion policies in the first respondent one Keltron Supervisor Promotion Policy and other Keltron Workmen Promotion Policy. Petitioner submits that she falls within the category of Keltron Supervisor Promotion policy being a science graduate. Petitioner's case is that she was denied promotion in accordance with Supervisor Promotion Policy and scale of pay. In the year 1985, management published a final seniority list showing a ranking different from ranks given to the respective parties. There were certain challenge before this Court regarding seniority list.

Petitioner admits that she has not chosen to challenge the seniority list.

3. Petitioner's grievance is that she has been placed in the category of Workmen Promotion Policy. Petitioner's case is that placing her in Workmen Promotion Policy is unsustainable. Therefore, petitioner seeks a direction to declare that she was governed by Supervisor Promotion Policy and she is entitled for necessary monetary benefits.

4. In this matter, a detailed counter affidavit has been filed by the first respondent. It is stated in the counter affidavit that the second respondent is not in existence. It is submitted that the assets and liabilities of Keltron Crystals Ltd. has been taken over by the Keltron Component Complex Ltd and it is further stated that reliefs sought by the petitioner against a non-existent company is unsustainable.

5. It is stated that petitioner was included in the company as workmen category and therefore, promotion policy applicable is the promotion policy of the workmen. It is stated that at no point of time petitioner has raised any grievance for inclusion of her in the workmen category. It is pointed out in the counter that petitioner has approached the Industrial Tribunal, Kozhikode in ID No.25 of 2000 and Industrial Tribunal negated the petitioner's

request. Grievance of the petitioner is that she is liable to be included in the Supervisor Promotion Policy. Petitioner approached the Industrial Tribunal to rectify the anomalies in treating her in workmen category. By Ext.P7 award, Industrial Tribunal declined to interfere with the matter.

6. It is pointed out by the learned counsel for the first respondent that no challenge is made against Ext.P7. Therefore, it is submitted that as early as in the year 2003, issue is concluded. It is further contended that no explanation has been put forward by the petitioner for making such a delay and claiming her grievance in 2010 by filing this Writ Petition.

7. The petitioner has raised her claim before the Industrial Tribunal. Industrial Tribunal by Ext.P7 declined to interfere with rectification of anomaly in the seniority list as pointed out by the petitioner. It is to be noted that Ext.P6 is the request made by the petitioner before the District Labour Officer, Kannur. This issue was raised in the above request. It is consequent upon such request, reference was made and award was passed. Petitioner has not chosen to set aside the award passed by the Industrial Tribunal.

7. In the absence of any challenge against Ext.P7 which was made in the year 2003 by the petitioner, I am of the view the

Writ Petition is not maintainable on the same issue which is covered against the petitioner by the award passed by the Industrial Tribunal. Further, petitioner has not stated any reason for delay in filing this Writ Petition in the year, 2010. I am of the view, the Writ Petition is liable to be dismissed on the ground of laches as well. No costs.

A.MUHAMED MUSTAQUE, JUDGE.

Sbna/16/02/15

