

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 24TH DAY OF JUNE 2015/3RD ASHADHA, 1937

WP(C).No. 29067 of 2008 (I)

PETITIONER:

K.SANTHOSH BABU, S/O.KRISHNAN,
CHETTIKUDI VEEDU, VENNIYOOR, VENGANOOR P.O.
VENGANOOR VILLAGE, THIRUVANANTHAPURAM.

BY ADV. SRI.K.P.RAJEEVAN

RESPONDENTS:

1. STATE OF KERALA,
REP. BY CHIEF SECRETARY, SECRETARIAT
THIRUVANANTHAPURAM.
2. THE SECRETARY FOR INDUSTRIES,
SECRETARIAT, THIRUVANANTHAPURAM.
3. THE LABOUR COMMISSIONER,
HOUSING BOARD BUILDING, THIRUVANANTHAPURAM.
4. KERALA STATE TEXTILE CORPORATION LTD.,
REP. BY ITS MANAGING DIRECTOR, THIRUVANANTHAPURAM.
5. TRIVANDRUM SPINNING MILLS LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR
THIRUVANANTHAPURAM.
6. THE ASSISTANT LABOUR OFFICER,
NEYYATTINKARA, THIRUVANANTHAPURAM.

R4 BY ADV. SRI.M.HARSHAN,SC,KSTC
R1 BY SENIOR GOVERNMENT PLEADER R. PADMARAJ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
24-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- P1 : TRUE COPY OF THE ATTENDANCE CARD OF PETITIONER.
- P2 : TRUE COPY OF ORDER DATED 18.10.04 PASSED BY LOK AYUKTA.
- P3 : TRUE COPY OF COMPLAINT DATED 22.11.04 SUBMITTED BY PETITIONER BEFORE 5TH RESPONDENT.
- P4 : TRUE COPY OF LETTER DATED 7.12.04 ISSUED BY THE OFFICIAL LIQUIDATOR.
- P5 : TRUE COPY OF ORDER DATED 27.2.06 PASSED IN C.A.78/05.
- P6 : TRUE COPY OF LETTER DATED 7.8.07 ISSUED TO THE LABOUR COMMISSIONER BY THE PETITIONER.
- P7 : TRUE COPY OF ORDER DATED 20.09.07 PASSED IN C.A.603/07.
- P8 : TRUE COPY OF APPLICATION DATED 2.10.06 ISSUED BY PETITIONER BEFORE THE 6TH RESPONDENT.
- P9 : TRUE COPY OF NOTIFICATION DATED 9.7.07 ISSUED BY GOVERNMENT.
- P10 : TRUE COPY OF MEMO DATED 1.11.07 FILED BY GOVT. PLEADER BEFORE THE HON'BLE COURT.

RESPONDENTS' EXHIBITS: NIL

// TRUE COPY//

P.A. TO JUDGE

smv

SHAJI P. CHALY, J.

W.P.(C). No.29067 of 2008.

Dated this the 24th day of June, 2015

JUDGMENT

This writ petition is filed by the petitioner contending that he was retrenched from the 5th respondent establishment and he was not paid the benefits due to him while working as workman in the said establishment. Apart from seeking the service benefits, petitioner also seeks the respondents to provide employment to the petitioner in the company immediately after the revival of the company by the 4th respondent Corporation and apart from the same other reliefs are also sought for.

2. First respondent has filed a counter in the writ petition contending that petitioner was paid lay-off compensation till 22.11.2002 and further that he was not a permanent workman. It is also contended by the Government that the petitioner is not eligible for any other compensation other than 22 days lay-off compensation paid to him. Further the Government has stated that petitioner has approached the Lok Ayukta raising his

complaint before the said authority but that was also dismissed.

3. Heard the learned counsel for the petitioner and the learned Government Pleader.

4. I have gone through the records, pleadings in the writ petition and the opposition made in the counter affidavit filed by the Government Pleader.

5. The petitioner, a workman while retrenched was available with certain remedies under the Industrial Disputes Act but he has not availed any of those remedies and has approached this Hon'ble Court invoking the discretionary remedy available to this Court under Article 226 of the Constitution of India.

6. In this writ petition, the petitioner contends that the 5th respondent company is taken over by the 4th respondent corporation and therefore consequent to the said development, he is entitled to get re-employment with the 4th respondent Corporation.

7. In my view the said claim raised by the petitioner is a subject matter to be raised by him before the appropriate statutory authorities as provided under the Industrial Disputes Act. I do not think that the reliefs sought for by the petitioner for re-employment in the 4th respondent Corporation can be considered at this point of time by this Court. But at the same

time leaving open the right of the petitioner to approach the appropriate statutory authorities under the Industrial Disputes Act, this writ petition can be closed.

8. Needless to say this writ petition was pending before this Court from the year 2008 and petitioner was bonafide prosecuting the same. Therefore, the statutory authorities under the Industrial Disputes Act will take into account the question of delay while considering the claim of the petitioner for re-employment with the 4th respondent Corporation.

I think it is only appropriate that the petitioner is given an opportunity to raise industrial dispute or claim as provided under the Industrial Disputes Act within a time frame. Therefore the petitioner is directed to raise any claim before the appropriate authority under the Industrial Disputes Act within a period of 45 days from the date of receipt of a copy of this judgment and if done so, same shall be considered in accordance with law within a period of 30 days thereafter.

Writ petition is disposed of accordingly and in the facts and circumstances without any order as to costs.

Sd/-
SHAJI P. CHALY
JUDGE

smv