

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

TUESDAY, THE 24TH DAY OF NOVEMBER 2015/3RD AGRAHAYANA, 1937

WP(C).No. 33216 of 2007 (D)

PETITIONER(S) :

**V.K.RAVEENDRAN NAIR,
DRIVER, REGIONAL PRODUCTION CENTRE
KERALA STATE HORTICULTURAL PRODUCTS DEVELOPMENT
CORPORATION, THIRUVANANTHAPURAM.**

BY ADV. SMT.MEENA.A.

RESPONDENT(S) :

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY, AGRICULTURAL DEPARTMENT
SECRETARIATE, THIRUVANANTHAPURAM.**
- 2. THE KERALA STATE HORTICULTURAL PRODUCTS DEVELOPMENT
CORPORATION, REPRESENTED BY ITS MANAGING DIRECTOR,
"UDAYAGIRI", POOJAPPURA P.O.,
THIRUVANANTHAPURAM-695 012.**
- 3. THE MANAGING DIRECTOR,
KERALA STATE HORTICULTURAL PRODUCTS DEVELOPMENT
CORPORATION, "UDAYAGIRI", POOJAPPURA P.O.,
THIRUVANANTHAPURAM-695 012.**

R1 BY ADV.P.P.PADMALAYAN, GOVERNMENT PLEADER

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
24-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

AMV

: 2 :

WP(C).No. 33216 of 2007 (D)

APPENDIX

PETITIONER(S) EXHIBITS :

- EXT.P1. : COPY OF THE G.O.(RT) NO.1054/91/AD. DATED 13.06.1991.**
- EXT.P2. : COPY OF THE ORDER NO.1066/90/HPDC/108 DATED 22.04.1992.**
- EXT.P3. : COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN
W.P.(C) NO.7547/06 DATED 09.08.2007.**
- EXT.P4. : COPY OF THE ORDER NO.A15(12)/1993/HPDC/1408
DATED 15.10.2007.**
- EXT.P5. : COPY OF THE ORDER NO.A15(12)/1993/HPDC/1407
DATED 15.10.2007.**
- EXT.P9. : COPY OF THE REPLY GIVEN BY THE 2ND RESPONDENT
DATED 05.06.2014.**
- EXT.P10. : COPY OF THE LIST OF EMPLOYEES WHO WERE MADE
PERMANENT.**
- EXT.P11. : COPY OF THE LIST OF EMPLOYEES GIVEN GRADE
PROMOTION.**

RESPONDENTS EXHIBITS : NIL

/TRUE COPY/

PA.TO JUDGE

AMV

ANU SIVARAMAN, J.

.....
W.P.(C) No.33216 of 2007 (D)

.....
Dated this the 24th day of November, 2015

JUDGMENT

The petitioner is working as a driver in the 2nd respondent Corporation. He was initially appointed as helper in the Meat Products of India and was appointed on deputation to the 2nd respondent Corporation as driver with effect from 23.10.1989. Later, by Ext.P1 Government Order dated 13.06.1991 the Government accorded sanction for the appointment of the petitioner as driver in the 2nd respondent Corporation. By Ext.P2 dated 22.04.1992, he was absorbed at the service of the Corporation on a regular basis with effect from 15.06.1991. Thereafter 1997 pay revision orders were given effect to in the Corporation. The petitioner was placed in the scale of pay of Rs.2,750 - 4,625/- with effect from 01.03.1997. It is submitted that the scale of pay of drivers in the Government was further revised to Rs.3,050 - 5,230/-, which was resolved by the Corporation to be adopted in the case of the petitioner also. When the benefits were not extended to the petitioner, he had approached this Court and by Ext.P3 judgment dated 09.08.2007, the 2nd respondent was directed to fix the pay of the petitioner in the scale of pay of Rs.3,050 - 5230 with effect from 01.03.1997 and to grant him arrears with effect from 01.07.2005. The question of grant of First Higher Grade on completion of 10 years

of service was also directed to be considered. By Ext.P4 order the benefit of fixation of pay and grant of arrears were allowed to the petitioner. However, by Ext.P5 order dated 15.10.2007; ten years higher grade was denied on the ground that the system of time bound higher grade had not been accepted for implementation in the Corporation. This order is under challenge.

2. Heard both sides.

3. The learned counsel for the petitioner contends that he is a regular employee of the 2nd respondent and that time bound higher grade is being granted to at least 25 of the regular employees of the Corporation. He has produced Exts.P10 and P11 replies received by him in answer to queries made under Right to Information Act to substantiate his contention.

4. A counter affidavit has been filed by the 1st respondent/State admitting that the petitioner had been absorbed as a regular employee of the 2nd respondent Corporation with effect from 15.06.1991. It is further stated that basic pay of the petitioner has been revised and arrears paid as directed in Ext.P3 judgment. At Paragraph No.3 of the counter affidavit, it is stated that the other drivers employed in the Corporation were appointed through Employment Exchange and they were receiving basic pay with dearness allowance, without any increment and therefore the request of the petitioner for time

bound higher grade was denied.

5. It is the specific case of the petitioner that the other drivers have been appointed only on a temporary basis and the denial of time bound higher grade to them cannot be a reason to deny the same to the petitioner, since he is a regular employee of the Corporation and the regular employees of the Corporation are being granted the benefits of the time bound higher grade as is applicable to the Government order.

In the above circumstances, the writ petition is disposed of, directing the Government to grant time bound higher grade to the petitioner, if the same benefit is being granted to regular employees of the Corporation. The benefit shall be granted with effect from 15.06.2001, the date on which he completed 10 years of service as a regular employee under the 2nd respondent along with arrears thereof. The above shall be done, at the earliest, at any rate, within a period of four months from the date of receipt of a copy of this judgment.

sd/-

ANU SIVARAMAN, JUDGE