

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

WP(C).No. 26298 of 2014 (J)

PETITIONERS:

1. T.K.ABDUL SALAM
S/O.KUNJU MOHAMMED, THACHAYIL HOUSE
NEELATHOP, ALUVA EAST VILLAGE, ALUVA TALUK
2. V.M. SIDEEQUE AGED 37 YEARS
VADAKKOTTU HOUSE, NEELATHOP ALUVA EAST VILLAGE
ALUVA TALUK.
3. T.J. NAZEER AGED 33 YEARS
THATHAPARAMBIL HOUSE, NEELATHOP ALUVA EAST VILLAGE
ALUVA TALUK.
4. T.A. MAJEED AGED 31 YEARS
THATHAPARAMBIL HOUSE, NEELATHOP ALUVA EAST VILLAGE
ALUVA TALUK.

BY ADVS.SRI.R.PARAMESWARA IYER
SRI.SIRAJ KAROLY

RESPONDENTS:

1. THE CHIEF EXECUTIVE OFFICER
KERALA STATE HEAD LOAD WORKERS' WELFARE BOARD
S.R.M.ROAD, ERNAKULAM, KOCHI-18
2. KERALA STATE HEAD LOAD WORKERS' WELFARE BOARD
DISTRICT COMMITTEE ERNAKULAM
REPRESENTED BY ITS CHAIRMAN
DISTRICT COMMITTEE OFFICE, POOKKARANMUKKU ERNAKULAM
KOCHI-35
3. KERALA STATE HEAD LOAD WORKERS' WELFARE BOARD
SUB COMMITTEE, ALUVA
REPRESENTED BY ITS CHAIRMAN ALUVA - 683 101
4. ASSISTANT LABOUR OFFICER
ALUVA, CIVIL STATION, ALUVA 683 101
5. DISTRICT LABOUR OFFICER
ERNAKULAM, DISTRICT LABOUR OFFICE
CIVIL STATION KOCHI-31.
6. C.A. IBRAHIM
POOL LEADERE, POOL NO.51, KODIKUTHUMALA SUB COMMITTEE
KERALA STATE HEAD LOAD WORKERS' WELFARE BOARD
ASOKAPURAM P.O, ALUVA 683 101.

7. INDIAN NATIONAL TRADE UNION CONGRESS (INTUC)
ERNAKULAM DISTRICT COMMITTEE
REPRESENTED BY ITS SECRETARY
ERNAKULAM DISTRICT COMMITTEE OFFICE ERNAKULAM
KOCHI-18

8. CENTRE OF INDIAN TRADE UNIONS (CITU)
ERNAKULAM DISTRICT COMMITTEE
REPRESENTED BY ITS SECRETARY
ERNAKULAM DISTRICT COMMITTEE OFFICE CANNON SHED ROAD
ERNAKULAM, KOCHI-11.

9. SWATHANTHRA THOZHILALI UNION (STU)
ERNAKULAM DISTRICT COMMITTEE
REPRESENTED BY ITS GENERAL SECRETARY
C.H.MOHAMMED KOYA BUILDING, MARKET ROAD, ERNAKULAM
KOCHI-18.

10. ALL INDIA TRADE UNION CONGRESS (AITUC)
ERNAKULAM DISTRICT COMMITTEE
REPRESENTED BY ITS SECRETARY
DISTRICT COMMITTEE OFFICE, JUDGES AVENUE ERNAKULAM
KOCHI-18.

11. ABDUL AZIZ K.M.
PARAPARAMBIL HOUSE, KODIKUTHUMALA
ASOKAPURAM P.O (VIA) ALUVA, 683 101.

12. SADIQUE T.K.
THOTTATHIPARAMBU HOUSE, KODIKUTHUMALA
ASOKAPURAM P.O (VIA) ALUVA, 683 101.

13. ABDUL LATHEEF
ANJILIMOOTTIL HOUSE, KODIKUTHUMALA
ASOKAPURAM P.O (VIA) ALUVA, 683 101.

14. A.K. SHAMEER
ANJILIMOOTTIL HOUSE, KODIKUTHUMALA
ASOKAPURAM P.O (VIA) ALUVA, 683 101.

SRI.RAFEEK V.K., GOVERNMENT PLEADER
R1-R3 BY ADV. SRI.JOY GEORGE
R11 -R 14 BY ADV. SRI.A.JAYASANKAR
R11 -R 14 BY ADV. SRI.C.V.MANUVILSAN
R11 -R 14 BY ADV. SRI.MANU GOVIND
R11 -R 14 BY ADV. SRI.S.SABARINADH
R BY SRI.C.S. AJITH PRAKASH, SC, KHWVB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
29-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

RKC

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APPENDIX

PETITIONERS' EXHIBITS

EXT.P1 - TRUE COPIES OF THE REGISTRATION CARDS ISSUED BY THE ASSISTANT LABOUR OFFICER.

EXT.P2 - TRUE COPY OF THE NOTIFICATION DATED 27-11-2013

EXT.P3 - TRUE COPY OF THE APPLICATIONS SUBMITTED BY THE PETITIONERS

EXT.P4 - TRUE COPY OF THE ORDER ISSUED BY THE 3RD RESPONDENT DATED 16-7-2014

EXT.P5 - TRUE COPY OF THE INFORMATION DATED 25-8-2014

EXT.P6 - TRUE COPY OF THE COMPREHENSIVE REPRESENTATION DATED 30-07-2014

EXT.P7 - TRUE COPY OF THE REGISTER OF HEAD LOAD WORKERS MAINTAINED WITH ALO, ALUVA.

RESPONDENTS' EXHIBITS: NIL

RKC

TRUE COPY

PA TO JUDGE

P.V.ASHA, J.

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Dated this the 29th day of July, 2015

JUDGMENT

The petitioners claim that they have registration under Rule 26A of Kerala Head Load Workers' Rules, 1981 and that they are residing within the limits of pool No.51 under the Kerala State Head Load Workers Welfare Board Sub Committee, Aluva. By Ext.P2 notification, 3rd respondent invited applications, from among persons with experience of 2 years, to be submitted along with copies of identity cards issued by the Assistant Labour Officer under Rule 26(A), for appointment against 20 vacancies in pool No.51 of head load workers.

2. According to the petitioners, they have submitted applications-Exts.P3 to Ext.P5, but they were not selected or included in the list of persons despite their seniority. The petitioners have produced a list of persons along with decision of the district committee dated 25.2.2014 which contains the names of 20 persons for engagement as head load workers in pool No.51.

3. Aggrieved by non-inclusion of the petitioners in the list, they submitted Ext.P6 representation before the District Committee of Kerala Head Load Workers Welfare Board, Ernakulam, dated 30.7.2014.

4. The petitioners have a contention that when they were not considered for inclusion in the list and for engagement, persons who are juniors to them were included. Apart from that they were not given any intimation regarding the rejection of their application, which is contrary to rule 6(A)(4) of the Kerala Head Load Workers (Regulation of Employment and Welfare) Scheme, 1983, according to which the Convener shall communicate the reasons for rejection of their application.

5. Respondents 11 to 14 have filed counter affidavit raising several contentions as to the claims of petitioners, their engagement, present employment etc. of the petitioners.

6. I heard the learned counsel for the petitioners, learned counsel for the private respondents as well as the standing counsel for the Welfare Board.

7. In view of the factual disputes between the petitioners

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and the private respondents and in view of the fact that the petitioners have not been given any intimation regarding rejection of their application, I think it is only appropriate that competent authority considers their representation Ext.P6, which can be treated as an appeal under rule 6(E).

Therefore 4th respondent is directed to consider Ext.P6 with reference to the contentions raised by the petitioners therein and to pass orders thereon, after affording an opportunity of hearing to the petitioners, respondents 4 to 8 and any other person who is likely to be affected, within a period of two months.

Writ petition is disposed of as above.

Sd/-
P.V.ASHA,
JUDGE.

rkc