

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 10TH DAY OF SEPTEMBER 2015/19TH BHADRA, 1937

W.P.(C).No.26097 of 2015 (J)

PETITIONER(S):-

P.Y. JOHNSON, S/O. YOHANNAN, AGED 53 YEARS,
WORKING AS ASSISTANT ENGINEER,
WATER SUPPLY SECTION 2, KERALA WATER AUTHORITY, KOLLAM,
RESIDING AT PLAVILA PUTHENVEEDU, NEAR SBT, KUNDARA,
KOLLAM-691501.

BY ADV. SRI.JAMES ABRAHAM (VILAYAKATTU).

RESPONDENT(S):-

1. MANAGING DIRECTOR
KERALA WATER AUTHORITY, JALABHAVAN, VELLAYAMBALAM,
THIRUVANANTHAPURAM-695033.

2. P.RAGHAVAN,
ASSISTANT ENGINEER, QUALITY CONTROL OFFICE,
KERALA WATER AUTHORITY, KANNUR-670701.

R1 BY STANDING COUNSEL SRI.GEORGE MATHEW.

R2 BY ADV. SRI.P.C.SASIDHARAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
10-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXHIBIT P1- A TRUE COPY OF THE ORDER DATED 10-4-2015 IN
SLP NOS. 5778-5780/2015.
- EXHIBIT P2- A TRUE COPY OF THE ORDER NO. KWA/HO/E2(A)/13209/2012
DATED 29-12-2012 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P3- A TRUE COPY OF THE REPRESENTATION DATED 20-7-2015
SUBMITTED BEFORE THE 1ST RESPONDENT.
- EXHIBIT P4- A TRUE COPY OF THE APPLICATION DATED 21-7-2015
SUBMITTED BY THE PETITIONER.
- EXHIBIT P5- A TRUE COPY OF THE REPLY DATED 1-8-2015 PROVIDED BY
THE INFORMATION OFFICER.

RESPONDENT(S)' EXHIBITS:-

- EXT.R2(a) RELEVANT EXTRACT OF FINAL SENIORITY LIST OF
DRAFTSMAN GR.I, AS ON 1.11.2000.
- EXT.R2(b) TRUE COPY OF ORDER DATED 31.05.2005 ISSUED BY THE
DEPUTY CHIEF ENGINEER OF THE KERALA WATER AUTHORITY.
- EXT.R2(c) TRUE COPY OF ORDER DATED 28.3.2008 ISSUED BY THE
CHIEF ENGINEER, NORTHERN REGION OF THE KERALA
WATER AUTHORITY.
- EXT.R2(d) RELEVANT EXTRACT OF THE PRELIMINARY LIST OF ASSISTANT
ENGINEERS AS ON 1.9.2008 (DIPLOMA HOLDERS)
- EXT.R2(e) TRUE COPY OF ORDER DATED 21.2.2015 ISSUED BY THE
DEPUTY CHIEF ENGINEER OF THE KERALA WATER AUTHORITY.
- EXT.R2(f) TRUE COPY OF LIST FOR THE YEAR 2015 FOR PROMOTION OF
ASST. ENGINEER TO ASSISTANT EXECUTIVE ENGINEER
DIPLOMA QUOTA DT. 13.8.2015 ISSUED BY THE GOVERNMENT.
- EXT.R2(g) TRUE COPY OF ORDER DATED 17.7.2015 ISSUED BY THE
DEPUTY CHIEF ENGINEER OF THE KERALA WATER AUTHORITY.

Vku/

- true copy -

K. Vinod Chandran, J

W.P.(C).No.26097 of 2015-J

Dated this the 10th day of September, 2015

JUDGMENT

The petitioner is a person promoted from the post of Draftsman Grade II to Grade I, on 14.11.1995 with retrospective effect from 06.09.1994. The 2nd respondent is a direct recruitee, to the Draftsman Grade I. *Inter se* seniority between the direct recruits and the promotees were under consideration before this Court in an earlier writ petition, O.P.No.879 of 2002. A learned Single Judge found that the ratio of 5:2:3 with respect to promotion from Draftsman Grade II, promotion from among Work Superintendent and direct recruitment has to be maintained and also upheld the retrospective effect of promotion of the promotees.

2. However, a Division Bench of this Court in a batch of Writ Appeals connected with W.A.No.151 of 2009, set aside the judgment for reason of the necessary parties not being impleaded in the party array. The matter was remanded for re-consideration. Aggrieved parties filed a review, which was also dismissed and

eventually they approached the Hon'ble Supreme Court with a Special Leave Petition, in which the order produced at Exhibit P1 was passed; maintaining status-quo as on the date of the order.

3. In the circumstance of the Division Bench having set aside the judgment and the Hon'ble Supreme Court having not granted a stay of such judgment, promotion shall be made in accordance with the order of status quo and the same shall be definitely subject to the result of the O.P.No.879 of 2002. Since petitioner herein is a party in the O.P.No.879 of 2002, he could raise all his contentions in the said Original Petition. Any promotion in violation of his claim would be subject to the result of O.P.No.879 of 2002 and definitely the petitioner could make his claim for retrospective promotion if eventually the claim of the promotees are accepted.

The writ petition is disposed of with the above observation.

Sd/-

K.Vinod Chandran
Judge.

vkul/-

[true copy]