

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

WP(C).No. 26567 of 2015 (U)

PETITIONER:

**ANTONY CHACKO, AGED 53 YEARS
ETTUKETIL HOUSE, CHATHANADU, ALAPPUZHA-688001.**

**BY ADVS.SRI.E.K.NANDAKUMAR (SR.)
SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURRYAN THOMAS**

RESPONDENTS:

- 1. UNION OF INDIA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF PERSONNEL & TRAINING
MINISTRY OF PERSONNEL
PUBLIC GRIEVANCES & PENSIONS, NORTH BLOCK
NEW DELHI-110001.**
- 2. THE SECRETARY
PUBLIC ENTERPRISES SELECTION BOARD
PUBLIC ENTERPRISES BHAVAN, BLOCK NO.14, CGO COMPLEX
LODHI ROAD, NEW DELHI-110003.**

R1 & R2 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- EXHIBIT-P1: TRUE COPY OF THE GAZETTE NOTIFICATION DATED 4.4.2008 ISSUED BY THE 1ST RESPONDENT.**
- EXHIBIT-P2: TRUE COPY OF THE REPRESENTATION DATED 8.5.2015 SENT BY SRI.N.K.PREMACHANDRAN M.P. TO THE 1ST RESPONDENT.**
- EXHIBIT-P3: TRUE COPY OF THE REPLY DATED 26.5.2015 SENT BY THE 1ST RESPONDENT TO SRI.N.K.PREMACHANDRAN M.P.**
- EXHIBIT-P4: TRUE COPY OF THE NOTIFICATION DATED 8.5.2015 ADVERTISED BY THE 2ND RESPONDENT INVITING APPLICATIONS TO THE POST OF CHAIRMAN-CUM-MANAGING DIRECTOR, INDIAN TELEPHONE INDUSTRIES LIMITED.**
- EXHIBIT-P5: TRUE COPY OF THE COVERING LETTER DATED 7.7.2015 ALONG WITH PETITIONER'S LETTER AND APPLICATION FORWARDED BY THE ADDITIONAL SECRETARY, GOVERNMENT OF KERALA.**
- EXHIBIT-P6: TRUE COPY OF THE RECOMMENDATION OF THE PSEB AFTER THE INTERVIEW DATED 28.4.2015.**
- EXHIBIT-P7: TRUE COPY OF A NEWS REPORT PUBLISHED IN THE E-PAPER OF ECONOMIC TIMES, DATED 2.6.2015.**

RESPONDENTS' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 26567 of 2015 (U)

Dated this the 7th day of September, 2015

J U D G M E N T

The petitioner is aggrieved with Ext.P4 notification issued by the Public Enterprises Selection Board of the Government of India. The petitioner's specific grievance is against the eligibility conditions with respect to the employment status, as noticed in Ext.P4 notification, which is extracted herein below:

“II. EMPLOYMENT STATUS:

The applicant must, on the date of application, as well as on the date of interview, be employed in a regular capacity - and **not** in a contractual/ad-hoc capacity - as one of the following:-

- (i) An officer of a Central Public Sector Enterprise (CPSE) (including a full-time functional Director in the Board of a CPSE);

- (ii) An officer of the Central Government/
Armed Forces of the Union;
- (iii) An officer of an All India Service.”

2. The petitioner, as is noticed in Ext.P5 application, had been employed in Public Sector Undertaking between 2006 and 2014 in various capacities as Director, Managing Director and Chairman of the Board. The petitioner contends that in the year 2014 the petitioner was appointed as Chairman and Managing Director of Kerala State Road Transport Corporation and had continued there. The aforesaid condition dis-entitles the petitioner from applying, since, as of now, the petitioner is not employed in a Central Government Public Sector Undertaking.

3. The petitioner relies on Ext.P3 reply to a query in which it is stated that the issue of consideration of candidates from State Public Sector Enterprises and Private

Sector as non-internal candidates along with the candidates of other Public Sector Enterprises for appointment in the Central Public Sector Enterprises is under consideration of the Government. The petitioner also relies on Ext.P1, a Resolution of the Ministry of Personnel, Public Grievances and Pensions, taken in the year 2008, which permitted the candidates from State Public Sector Enterprises to be considered as non-internal candidate for appointment in Central Public Sector Enterprises.

4. Obviously, the documents on which the petitioner places reliance, only projects a change in policy of the Central Government. Earlier, as per Ext.P1, the Central Government had a policy by which the personnel of State Public Sector Enterprises also were considered as non-internal candidates for appointment in Public Sector Enterprises of the Central Government. However, there had been a change, which is evident from Ext.P3 query,

which notices that the issue of consideration of such persons as non-internal candidates is under consideration of the Central Government.

5. It is to be noticed that Ext.P4 notification was issued prior to Ext.P3 communication. Hence, as on the date of Ext.P4 notification, the eligibility conditions with respect to employment status, entitles only persons who are continued in Central Public Service Enterprises to be considered for selection. The same is a policy matter of the Central Government, which cannot be interfered with, by this Court. Even seeking for an explanation as to why the eligibility is confined to those working in the Public Sector Undertakings, would indicate an exercise by which this Court seeks to substitute the view of the Central Government on a ground of reasonableness, which is an impermissible exercise under Article 226. This Court hence, would not direct consideration of the petitioner's

case provisionally, since, the petitioner does not satisfy the eligibility condition as per the notification.

The writ petition, hence, would stand dismissed.

Sd/-
K.VINOD CHANDRAN,
JUDGE