

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

W.P.(C).No.30053 of 2013 (F)

PETITIONER(S):-

G. SAJI NARAYANAN,
DEPUTY DIRECTOR,
CENTRE FOR DEVELOPMENT OF IMAGING TECHNOLOGY (C-DIT),
CHITRANJALI HILLS, THIRUVALLAM,
THIRUVANANTHAPURAM - 695 027.

BY ADVS.SRI.S.EASWARAN
SRI.P.MURALEEDHARAN (IRIMPANAM)
SRI.M.A.AUGUSTINE.

RESPONDENT(S):-

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1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
INFORMATION & PUBLIC RELATIONS (E) DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
 2. CENTRE FOR DEVELOPMENT OF IMAGING TECHNOLOGY (C-DIT),
CHITRANJALI HILLS, THIRUVALLAM, THIRUVANANTHAPURAM,
PIN: 695 027, REPRESENTED BY ITS REGISTRAR.
 3. THE REGISTRAR
CENTRE FOR DEVELOPMENT OF IMAGING TECHNOLOGY (C-DIT),
CHITRANJALI HILLS, THIRUVALLAM,
THIRUVANANTHAPURAM - 695 027.
 4. THE DIRECTOR,
CENTRE FOR DEVELOPMENT OF IMAGING TECHNOLOGY (C-DIT),
CHITRANJALI HILLS, THIRUVALLAM,
THIRUVANANTHAPURAM - 695 027.

R1 BY GOVERNMENT PLEADER SMT.A.LOWSY.
R2 TO R4 BY STANDING COUNSEL SRI.C.S.AJITH PRAKASH.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
15-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXT.P1: COPY OF ORDER G.O.(RT)NO.196/2008/I & PRD
DATED 18/08/2008 ISSUED BY THE 1ST RESPONDENT.
- EXT.P2: COPY OF G.O(RT) NO.222/2008/I &PRD DATED 29/9/2008
ISSUED BY THE 1ST RESPONDENT.
- EXT.P3: COPY OF PROCEEDINGS NO.246/A1/ADMN/2011/C-DIT
DATED 09/12/2011 ISSUED BY THE 2ND RESPONDENT.
- EXT.P4: COPY OF G.O.(MS) NO.6/2010/I &PRD DATED 8/9/2010
ISSUED BY THE 1ST RESPONDENT.
- EXT.P5: COPY OF REPRESENTATION DATED 16/01/2011 SUBMITTED BY
THE PETITIONER TO THE REGISTRAR OF THE
2ND RESPONDENT.
- EXT.P6: COPY OF REPRESENTATION DATED 15/02/2013 SUBMITTED BY
THE PETITIONER BEFORE THE DIRECTOR OF THE
2ND RESPONDENT.
- EXT.P7: COPY OF REPRESENTATION DATED 08/04/2013 SUBMITTED
BY THE PETITIONER THROUGH PROPER CHANNEL TO THE
SECRETARY OF THE 1ST RESPONDENT.
- EXT.P8: COPY OF JUDGMENT DATED 10TH JULY, 2013 IN
WPC NO.17292 OF 2013 (J).
- EXT.P9: COPY OF G.O(RT) NO.390/13I&PRD DATED 21/10/2013
ISSUED BY THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.30053 of 2013-F

Dated this the 15th day of October, 2015

JUDGMENT

The petitioner is aggrieved with the fact that the petitioner's representation for consideration of promotion has been rejected by Exhibit P9. The petitioner in fact claimed promotion to 'E2' and 'F' Grades in the organisation. The organisational hierarchy starts from Grade 'B', then proceeds to 'C', 'E1', 'E2' and 'F'.

2. The petitioner along with other 55 employees in other categories were engaged in various posts, starting from 1990 onwards. The specific date of entry of the petitioner was 07.06.1991. Admittedly it was a contract employment. The petitioner along with a few were engaged continuously; while some others had intermittent services. In any event, the Government by Exhibit P1 order, decided to sanction 55 posts in the respondent, Centre for Development of Imaging Technology "for brevity "C-DIT"]], so as to accommodate these persons who had continued for long as contract employees. Exhibit P2 was an

order, which regularised those employees who had been continuing so in the C-DIT against the 55 sanctioned posts as per Exhibit P1.

3. The Special Rules of the C-DIT was framed on 12.05.2003. However, the same was pending approval with the Government for long. In the meanwhile, there were placements made by the C-DIT even among the contract employees. Hence, the petitioner who had entered service in Grade 'B', was placed at Grade 'C' and then Grade 'E1' on 01.06.2000. The petitioner, not being further promoted, was before the authorities claiming at least consideration to the higher grades. The petitioner contended that he should be considered as having been absorbed on the date of his joining and he should be considered for promotion further, from the Grade 'E1' post, to which he was promoted on 01.06.2000.

4. Then the petitioner was confronted with Exhibit P4 order, which indicated that the regularisation was effective only from 01.10.2000 and the terms and conditions of such regularisation, as detailed in the order, would enable the petitioner's promotion only in 2018, as contended by the Government in its counter affidavit.

5. A reading of Exhibit P4 would indicate that the regularisation was effected from 01.10.2000. The petitioner's objection to such regularisation is on the ground that the petitioner in fact was appointed earlier; on 07.06.1991. The regularisation effected as per Exhibit P2 had to relate back to the date of first appointment. This Court, however, is unable to countenance such a contention, since admittedly there were no sanctioned posts and the C-DIT had appointed persons on contract employment, who had continued for long. The petitioner also, along with others, continued at their risk, fully aware of the fact that they were in a contract employment. Sanction of post was a pre-requisite for regular appointments in the respondent-C-DIT, which occurred only by Exhibit P1 dated 18.08.2008. In fact by Exhibit P4, the Government took note of the hardship of those persons who continued for long and related such regularisation retrospectively to 01.10.2000, which covers almost half of the period spent in contract employment. This Court does not find any ambiguity or illegality in such specification made by the Government.

6. The further ground is on the question of promotions of the staff so regularised with effect from 01.10.2000. Considering

the hierarchy of grades in the organisation, the Government found that the placements made prior to 01.10.2000 are irregular insofar as the contract employees, did not have a regular service and the same could only relate from 01.10.2000, from which date the Government retrospectively granted regularisation. Thus, the Government prescribed in Exhibit P4 that those persons who were placed in the higher grades should be continued as such from 01.10.2000. Their first placement and second placement would be deemed to have occurred only after the prescribed period in the Special Rules; starting from 01.10.2000. In such circumstances, the petitioner who had been placed in the higher grade of Grade 'C' and Grade 'E1' would be continued with the same perks as Grade 'E' from 01.10.2000; but, however, would be deemed in the respective grades only after the period prescribed in the Special Rules. When the period prescribed for being placed in Grade 'E1' occurs, then necessarily the Special Rules have to be looked into, to find out as to whether the next consideration for promotion or placement to Grade 'E' would occur.

7. To illustrate: Taking 5 years to be period for higher placement to all the grades, the petitioner's regularisation on

01.10.2000 would be in the entry post of Grade 'B' and after five years, i.e., on 01.10.2005, he would have been deemed to be placed in Grade 'C' and on 01.10.2010 in Grade 'E1'. Going by the illustration, in another five years the petitioner would be entitled to be considered for Grade 'E2' and so on. This is, however, to be done with reference to the periods and eligibility conditions as also the qualifications prescribed in the Special Rules of 2003. The C-DIT would, hence, look into that and consider the same in accordance with law. This Court would make it clear that this interpretation of Exhibit P4 has to be applied to the entire employees of the C-DIT.

The writ petition would stand disposed of with the above directions. No costs.

Sd/-

K.Vinod Chandran
Judge.

vku/-

[true copy]