

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 21ST DAY OF OCTOBER 2015/29TH ASWINA, 1937

WP(C).No. 28620 of 2015 (B)

PETITIONERS:

1. **ANITHA M. AGED 43 YEARS**
D/O. KRISHNANKUTTY, KUNHIMOOLAYIL, GOVERNMENT QUARTERS
MUNDERI, KALPETTA VILLAGE, VYTHIRI TALUK
WAYANAD DISTRICT.
2. **AYISHA M.**
D/O. MARAKKAR, MEMANA HOUSE, ERANHIVAYAL
KALPETTA VILLAGE, VYTHIRI TALUK, WAYANAD DISTRICT.

BY ADV. SRI.K.RAKESH

RESPONDENTS:

1. **THE STATE OF KERALA**
REPRESENTED BY THE PRINCIPAL SECRETARY
DEPARTMENT OF INDUSTRY (K), SECRETARIAT
THIRUVANANTHAPURAM -695 001.
2. **THE SECRETARY,**
KHADI AND VILLAGE INDUSTRIES BOARD
THIRUVANANTHAPURAM - 695 001.

ADDL. RESPONDENTS

ADDL.R3. SABEENA BEEGUM M.S., AGED 42 YEARS,
W/O. MUHAMMED SEERASI, PLAVILAKATHU VEEDU, KEEZHTHONNAKKAL
POTHENCODE P.O., THIRUVANANTHAPURAM DISTRICT
PRESENTLY WORKING AS UPPER DIVISION CLERK IN THE
KERALA KHADI AND VILLAGE INDUSTRIES BOARD OFFICE,
VANCHIYOOR, THIRUVANANTHAPURAM 695024.

ADDL.R4 SATHYA NIRMALA P., AGED 44 YEARS, W/O. JAYAN,
'VASANTHAM', KASTHURBA NAGAR, AKATHETHARA,
PALAKKAD - 678 008. PRESENTLY WORKING AS UPPER DIVISION CLERK
IN THE DISTRICT KAHDI AND VILLAGE INDUSTRIES OFFICE, PALAKKAD

**ADDL.R5 HEMAKUMAR S. AGED 45 YEARS, S/O. SADANANDADASAN NAIR,
'HARINAMAM', VALAMCHERY, KILIMANOOR P.O.,
THIRUVANANTHAPURAM 695 601 PRESENTLY WORKING AS
UPPER DIVISION CLERK IN THE KERALA KHADI AND VILLAGE
INDUSTRIES BOARD OFFICE, VANCHIYOOR THIRUVANANTHAPURAM 695024**

**ADDL.R6 PADMANABHAN P., AGED 50 YEARS, S/O. A.V. KUNHAMBUR NAMBIAR,
PAPPINISSERY HOUSE, VADUVIL P.O., KANNUR DISTRICT 670 582
PRESENTLY WORKING AS UPPER DIVISION CLERK IN THE
PAYYANUR KHADI CENTRE, PAYYANUR 670 307**

**ADDL.R7 ROY O.R. ODASSERIAL HOUSE, V.P. THURUTH,
KOTTAPPURAM P.O., KODUNGALLUR, THRISSUR DISTRICT
PRESENTLY WORKING AS UPPER DIVISION CLERK IN THE
DISTRICT KHADI AND VILLAGE INDUSTRIES OFFICE, ERNAKULAM 682017**

**ADDL.R8 P.K. LATHEESH KUMAR, PANANGATTU PARAMBIL, KIZHAKKEPPURAM
PUKKATT ROAD, NORTH PARAVOOR, ERNAKULAM
PRESENTLY WORKING AS UPPER DIVISION CLERK IN THE
DISTRICT KHADI AND VILLAGE INDUSTRIES OFFICE,
ERNAKULAM 682 017.**

**ADDITIONAL R3 TO R8 ARE IMPEADED AS PER ORDER DATED 13.10.15
IN I.A. 14613/2015**

**ADDL R3 -R8 BY ADV. SRI.K.P.HARISH
R1 BY GOVERNMENT PLEADER SMT. M.J. RAJASREE
R2 BY SRI.TOM K.THOMAS, SC KERALA KHADI & VILLAGE INDUSTRIES**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1- TRUE COPY OF THE GOVERNMENT ORDER AS G.O(P) 32/1998/P&ARD DATED 28/09/1998.**
- EXHIBIT-P2- TRUE COPY OF THE G.O(P) 18/99 P&ARD DATED 13/10/1999.**
- EXHIBIT-P3- TRUE COPY OF THE RESOLUTION DATED 20/01/2003 OF THE KHADI BOARD.**
- EXHIBIT-P4- TRUE COPY OF THE GOVERNMENT LETTER ISSUED BY THE KHADI BOARD TO THE PETITIONER DATED 16/04/2015.**
- EXHIBIT-P5- TRUE COPY OF THE REPLY GIVEN BY THE IST PETITIONER BEFORE THE 2ND RESPONDENT DATED 25/05/2015.**
- EXHIBIT-P6- TRUE COPY OF THE LETTER ISSUED BY THE IST RESPONDENT TO THE PETITIONERS DATED 28/07/2015.**
- EXHIBIT-P7- TRUE COPY OF THE LETTER DATED 22/08/2015 ISSUED BY THE SECRETARY, KHADI BOARD.**

RESPONDENT(S)' EXHIBITS

- EXHIBIT R3(A) TRUE COPY OF THE PROCEEDINGS NO.KB.7737/98/E1(B) DATED 17.3.2003 OF THE 2ND RESPONDENT**

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 28620 of 2015 (B)

Dated this the 21st day of October, 2015

J U D G M E N T

The petitioners are handicapped persons who are working as U.D. Clerks in the District Khadi and Village Industries Board, Kalpetta.

2. The petitioners are persons who got employment through the Employment Exchange and continued for intermittent periods as U.D. Clerks in the respondent Board. Subsequently, on the plea of regularisation being made, the petitioners were regularised. The additional respondents herein are persons who have been appointed by the Public Service Commission on a selection notified. There are also in-service candidates in the post of U.D.Clerk, which is the feeder category to the post of Junior Superintendent. The issue now raised before this Court is with respect to the seniority of petitioners 1 and 2. While the petitioners claim that they are entitled to seniority as on

the date of order of regularisation at Ext.P2, the additional respondents claim that it can only be from the date of regularisation, being Ext.P3.

3. These are all matters which has to be addressed first by the Secretary and then by way of an appeal to the Board. The Secretary is said to have heard the petitioners herein. The representation of the additional respondents are pending before the Secretary. In such circumstance, it is only proper that the petitioners and the additional respondents be heard together on a day and orders passed immediately thereafter, especially since the issue of promotion to the post of Junior Superintendent is pending consideration.

4. The petitioners are also aggrieved by the fact that the Office of the Principal Secretary (Industries) has, by Ext.P4, held that the regularisation granted from 1999 is unconstitutional. It is not for the Secretary (Industries) to pre-empt the authority from deciding on such issues.

Hence, the consideration made by the Secretary would have to be de hors the opinion expressed by the Principal Secretary in Ext.P4.

5. In such circumstance, the petitioners and the additional respondents or their authorised representatives shall be present before the Office of the 2nd respondent on **30.10.2015**; on which day, if it is not convenient to the Secretary to go ahead with the hearing, they shall be intimated a date of hearing within two weeks thereafter and the entire exercise finished within one month from the date of hearing. It is made clear that this Court has not observed anything on the merits and it is for the Secretary to consider the rival contentions.

The writ petition is disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE

jjj 21/10/15

The word "Ext.P3" occurring in the last line of paragraph 2 of the judgment dated 21.10.2015 in W.P.(C) No.28620/2015 is corrected as "Ext.R3(a)" as per order dated 4.11.2015 in I.A. 15936/2015 in WP.(C) No.28620/2015.

Sd/-
Registrar (Judicial)