

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).No. 30581 of 2014 (W)

PETITIONER(S):

SHAJI KUMAR M.D. AGED 43 YEARS
CHEMICAL MIXING ASSISTANT
KERALA STATE FILM DEVELOPMENT CORPORATION
ON OTHER DUTY AS GATE KEEPER, CHITHRANJALI THEATRE
NORTH PARAVUR
ERNAKULAM DISTRICT-683 513 RESIDING AT SREENILAYAM
T.C.52/125, POOZHICKUNNU INDUSTRIAL ESTATE P.O
THIRUVANANTHAPURAM-695 019.

BY ADVS.SRI.BENNY GERVACIS
SMT.K.MAJEEDA HAMEED

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
CULTURAL AFFAIRS (A)DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM-695 001.

2. KERALA STATE FILM DEVELOPMENT CORPORATION LTD.
REPRESENT BY MANAGING DIRECTOR
CHALACHITHRA KALABHAVAN, VAZHUTHAKKAD
THIRUVANANTHAPURAM - 695014

3. THE MANAGING DIRECTOR
KERALA STATE FILM DEVELOPMENT CORPORATION LTD.CHALACHITHRA
KALABHAVAN
VAZHUTHAKKAD, THIRUVANANTHAPURAM - 695014

R2 & 3 BY ADV. SRI.A.SUDHI VASUDEVAN, SC, KSFDC
R BY GOVERNMENT PLEADER: SRI V VIJULAL SR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS:

EXT.P1 - PHOTOCOPY OF THE ORDER DATED 13-12-2012 ISSUED BY THE 3RD RESPONDENT DECLARING THE PROBATION OF THE PETITIONER

EXT.P2 - PHOTOCOPY OF THE ORDER DATED 7-8-2011 POSTING THE PETITIONER AT THE DIGITAL STUDIO

EXT.P3 - PHOTOCOPY OF THE ORDER DATED 13-3-2013 TRANSFERRING THE PETITIONER

EXT.P4 - PHOTOCOPY OF THE LIST OF THE EMPLOYEES WORKING ON DAILY WAGES IN THE 2ND RESPONDENT CORPORATION OBTAINED UNDER RIGHT TO INFORMATION ACT

EXT.P5 - PHOTOCOPY OF THE LIST OF THE IRREGULAR APPOINTEES WHO ARE YETE TO BE REGULATED IN THE 2ND RESPONDENT CORPORATION OBTAINED UNDER RIGHT TO INFORMATION ACT

EXT.P6 - PHOTOCOPY OF THE ORDER G.O(RT)NO.333/2011/GAD DATED 16-6-2011 ISSUED BY THE 1ST RESPONDENT

EXT.P7 - PHOTOCOPY OF THE REPRESENTATION DATED 28-11-2013

EXT P8 - A TRUE COPY OF THE RELEVANT EXTRACT OF THE SERVICE RULES

EXT P9 - A TRUE COPY OF THE NOTIFICATION DATED 13TH JUNE 2008 ISSUED BY the PUBLIC SERVICE COMMISSION FOR APPOINTMENT TO THE POST OF CHEMICAL MIXING ASSISTANT

EXT P10- A TRUE COPY OF THE APPOINTMENT ORDER DTD 13.07.2010

EXT P11- A TRUE COPY OF THE GOVERNMENT ORDER DATED 24.11.2009

EXT P12- A TRUE COPY FO THE RELEVANT EXTRACT OF G.O(P) 145/2006 GIVING the SCHEDULE OF POSTS AND SCALE OF PAY OF THE COMMON CATEGORY POSTS

RESPONDENT(S) ' EXHIBITS:

EXT R2(a): A TRUE COPY OF THE MEMO ISSUED BY the 2ND RESPONDENT TO the PETITIONER

EXT R2(b): A TRUE COPY OF THE ORDER DTD 12.1.2015 ISSUED BY the 3rd RESPONDENT

EXT R2(c): A TRUE COPY OF the GO(MS)BEARING NO.30/2009/CAD DATED 24.11.2009 ISSUED BY the GOVERNMENT OF KERALA

True Copy/

P A to Judge

A.MUHAMED MUSTAQUE, J.
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W.P(C).No.30581 of 2014
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Dated this the 09th day of February, 2015

JUDGMENT

This Writ Petition is filed by the petitioner seeking a direction against respondents 2 and 3 to post him against Class III post by relegating daily wage hands holding Class III post to Class IV post.

2. In this matter, a detailed counter affidavit has been filed on behalf of respondents 2 and 3. It is stated in paragraph 19 as follows:

“While matters thus stood, for administrative convenience and considering the complaint of the petitioner that he was posted as a Gatekeeper as per Ext.P3, the 3rd respondent by an order dated 12.01.2015 had transferred and posted the petitioner as a Counter Clerk on working arrangement basis at Chithranjali theatre, Chitoor. A true copy of the order dated 12.01.2015 issued by the 3rd respondent is produced herewith and marked as Exhibit R2(b). It is respectfully submitted that the post of Counter Clerk falls within category III as per Kerala State Film Development Corporation Ltd Recruitment Rules. Going by the revised scale of pay, the post of Chemical Mixing Assistant and Counter Clerk are in the same scale of pay and stand classified as Class III as per the Service Rules of Kerala State

Film Development Corporation Ltd. It is respectfully submitted sanction was accorded by the Government as per G.O(MS) bearing No.30/2009/CAD dated 24.11.2009 extending the benefits of pay revision to the employees of KSFDC. A look at the said Government order would show that the scale of pay of the post of Counter Clerk and Chemical Mixing Assistant are one and the same. A true copy of the GO (MS) bearing No.30/2009/CAD dated 24.11.2009 issued by the Government of Kerala is produced herewith and marked as Exhibit R2 (c)."

3. In view of the counter as above, petitioner's relief for posting as a Class III employee has been satisfied. However, petitioner's further grievance related to his posting as Counter Clerk to the Chithranjali theatre, Chittur in Palakkad district. I am of the view, petitioner is free to take up his grievance before respondents 2 and 3. If petitioner makes a representation within a period of two weeks from the date of receipt of a copy of this judgment regarding his posting at Chittur, same shall be considered by the second and third respondents within a period of four weeks on receipt of such request.

The Writ Petition is disposed of.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.