

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

WP(C).No. 31851 of 2014 (F)

PETITIONER:

**THOMAS JACOB,
ASSISTANT GENERAL MANAGER (IN CHARGE),
KERALA STATE INDUSTRIAL ENTERPRISES LIMITED,
CALICUT AIR CARGO COMPLEX, CALICUT AIRPORT P.O.
KARIPUR, MALAPPURAM - 673 647.**

BY ADV. SRI. VISHNU S. CHEMPAZHANTHIYIL

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE PRINCIPAL SECRETARY TO GOVERNMENT,
INDUSTRIES (B) DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. KERALA STATE INDUSTRIAL ENTERPRISES LIMITED
REPRESENTED BY ITS MANAGING DIRECTOR
ST. JOSEPH'S PRESS BUILDING, COTTON HILL,
THIRUVANANTHAPURAM - 695 014.**
- 3. THE MANAGING DIRECTOR,
KERALA STATE INDUSTRIAL ENTERPRISES LIMITED,
ST. JOSEPH'S PRESS BUILDING, COTTON HILL,
THIRUVANANTHAPURAM - 695 014.**

**R1 BY GOVERNMENT PLEADER SRI. SOJAN JAMES
R2 & R3 BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR, SC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28-05-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXT. P1 - TRUE COPY OF THE CIRCULAR NO. KSIE/A&HR/75/1074 DATED 17.11.2014
ISSUED BY THE 3RD RESPONDENT.

EXT. P2 - TRUE COPY OF THE COMMUNICATION bbb NO. KSIE/A&HR/42/634 DATED
18.08.2014 FROM THE MANAGING DIRECTOR OF KSIE.

EXT. P2(A) - ENGLISH TRANSLATION OF EXT. P2.

EXT. P3 - TRUE COPY OF THE MINUTES OF THE 216TH BOARD MEETING OF KSIE
HELD ON 19.11.2014.

EXT. P4 - TRUE COPY OF THE REPRESENTATION DATED 26.11.2014 TO THE 3RD
RESPONDENT.

EXT. P5 - TRUE COPY OF JUDGMENT DT. 21.12.2011 IN W.P.(C) NO. 34317/2011 OF THIS
HON'BLE COURT.

EXT. P6 - TRUE COPY OF G.O.(RT) NO. 1323/2011/ID DATED b 24.10.2011 OF THE
INDUSTRIES (H) DEPARTMENT.

EXT. P7 - TRUE COPY OF G.O(MS) NO. 03/2012/S&T DT. 16.4.2012bb OF THE SCIENCE
AND TECHNOLOGY DEPARTMENT.

EXT. P8 - TRUE COPY OF G.O(MS) NO. 146/2013/CO-OP. DATED 29.11.2013 OF THE
COOPERATION DEPARTMENT.

EXT. P9 - TRUE COPY OF G.O(MS) NO. 8/2014/H&FWD DT. 04.01.2014 OF HEALTH AND
FAMILY WELFARE DEPARTMENT.

EXT. P10 - TRUE COPY OF G.O(MS) NO. 131/2014/H&FWD DT. 30.04.2014 OF HEALTH
AND FAMILY WELFARE DEPARTMENT.

EXT. P11 - TRUE COPY OF G.O(MS) NO. 160/2014/H&FWD DT. 30.05.2014 OF HEALTH
AND FAMILY WELFARE DEPARTMENT.

EXT. P12 - TRUE COPY OF THE INTERIM ORDER IN W.P.(C) NO. 30565/2014 OF THIS
HON'BLE COURT.

RESPONDENT(S)' EXHIBITS

EXT. R2(A) - TRUE COPY OF THE ORDER DATED 08.01.2015.

//TRUE COPY//

P.A. TO JUDGE

ANIL K. NARENDRA, J.

W.P.(C) No.31851 of 2014

Dated this the 28th day of May, 2015

JUDGMENT

The petitioner was working as Assistant General Manager (in charge) in the Kerala State Industrial Enterprises Limited has filed this writ petition seeking a writ of mandamus commanding the respondents to permit him to continue in the service of Kerala State Industrial Enterprises Limited until he attains the age of 60 years and also seeking a declaration that the petitioner is entitled to continue in service till he attains the age of 60 years in the light of Exts.P2 and P3.

2. By order dated 27.11.2014, this Court stayed the retirement of the petitioner from service on his attaining the age of 58 years. But this Court has made it clear that the petitioner's continuance in service beyond 30.11.2014 shall be subject to the condition that his entitlement for salary and allowances for the service rendered by him beyond that date be dependent on the outcome of the writ petition, and that in the event of the petition getting dismissed, such service shall not count for computation of terminal benefits. In other words, the petitioner will have to work without salary and allowances for the period beyond 30.11.2014.

3. By the aforesaid order dated 27.11.2014, this Court, having regard to the fact that the Board of Directors of Kerala State Industrial Enterprises Limited has resolved to enhance the age of retirement of all its employees to sixty years, directed the State Government, the 1st respondent herein, to take an appropriate decision on the request made by the management of the Kerala State Industrial Enterprises Limited to approve the decision to raise the age of retirement of all its employees to sixty years and the 1st respondent was directed to take a decision in this regard, as expeditiously as possible, at any rate, within a period of two months from the date of order.

4. A counter affidavit has been filed by respondents 2 and 3, producing Ext.R2(a) Government Order dated 08.01.2015, in which the Government has declined the recommendation made by the management of the Kerala State Industrial Enterprises Limited for enhancement of the retirement age of its employees from 58 years upto 60 years.

5. In view of Ext.R2(a) Government Order, the petitioner is not entitled for any of the reliefs prayed for in the writ petition and the same can only be dismissed without prejudice to his rights to challenge Ext.R2(a) Government Order dated 08.01.2015, if so advised.

6. Now the petitioner has filed I.A. No.6450/2015 seeking an order to the effect that he should be treated to have retired with effect from 30.11.2014, i.e., the date of attaining the age of 58 years, with liberty to raise the issue of remuneration for the period he had worked beyond 30.11.2014 before the 3rd respondent.

7. In view of the specific condition stipulated in the order dated 27.11.2014 by which the petitioner was permitted to continue in service beyond 30.11.2014, I am of the view that the relief sought for in the I.A. No.6450/2015 cannot be granted to the petitioner at this stage.

In the result, this writ petition is dismissed without prejudice to the right of the petitioner to challenge Ext.R2(a) Government Order in appropriate proceedings if so advised. It is made clear that this judgment will not stand in the way of the petitioner raising the issue of remuneration for the period he had worked beyond 30.11.2014 in that legal proceedings.

SD/-
ANIL K. NARENDRA,
JUDGE