

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

WP(C).No. 31960 of 2014 (T)

PETITIONERS:

**1. NIRMALA KUMARI J, AGED 58 YEARS
W/O (LATE) K. RADHAKRISHNAN, CLEANER
KERALA HEALTH RESEARCH & WELFARE SOCIETY
MEDICAL COLLEGE P.O, THIRUVANANTHAPURAM
RESIDING AT KIZHAKKEVILA VEEDU, MAVARATHALA KONAM
NALACHIRA (P.O), THIRUVANANTHAPURAM 695015**

**2. SUNEETHA.D, AGED 58 YEARS
W/O M. SASIDHARAN NAIR, TYPIST
KERALA HELATH RESEARCH & WELFATE SOCIETY
MEDICAL COLLEGE P.O, THIRUVANANTHAPURAM
RESIDING AT KARTHIKA, TC 13/1512/1, KUMARAPURAM
MEDICAL COLLEGE P.O, THIRUVANANTHAPURAM 695011**

**BY ADVS.SRI.M.RAMACHANDRAN (KALOOR)
KUM.ANUPAMA SUBRAMANIAN**

RESPONDENTS:

**1. THE MANAGING DIRECTOR
KERALA HEALTH RESEARCH & WELFATE SOCIETY
GENERAL HOSPITAL CAMPUS, RED CROSS ROAD
THIRUVANANTHAPURAM 695035**

**2. KERALA HELATH RESEARCH & WELFATE SOCIETY,
REPRESENTED BY ITS MANAGING DIRECTOR
GENERAL HOSPITAL CAMPUS, RED CORSS ROAD
THIRUVANANTHAPURAM 695035**

**3. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT
HEALTH & FAMILY WELFATE DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM 695001**

**R1&2 BY ADV. SRI.M.AJAY,SC,KERALA HEALTH RESEARCH&WELFARE SCTY
R3 BY GOVERNMENT PLEADER SMT. M.J. RAJASREE**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
28-09-2015, ALONG WITH WPC. 20463/2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE LETTER NO A6/943/13/KHRWS, DATED 12-11-2014
ISSUED BY THE 2ND RESPONDENT ALONG WITH ITS ENGLISH
TRANSLATION**
- EXHIBIT P2 TRUE COPY OF THE ORDER IN I.A NO 9515/2014 IN WPC NO 13748/14**
- EXHIBIT P3 TRUE COPY OF THE ORDER IN WPC NO 25442/2014 DATED 01-10-2014**
- EXHIBIT P4 TRUE COPY OF THE COMMUNICATION NO A6/3584/13/ KHRWS DATED
08-10-2014 ALONG WITH ITS ENGLISH TRANSLATION**

RESPONDENT(S)' EXHIBITS

- EXHIBIT R1(A) TRUE COPY OF THE G.O.(MS) NO.297/2011/H&FWD DATED
7.5.2011**
- EXHIBIT R1(B) TRUE COPY OF THE MINUTES OF THE 124TH GOVERNING
BODY MEETING OF KHRWS SCHEDULED ON ITEM NOS.14, 15
AND 16**

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 31960 of 2014 (T)
&
W.P.(C) No. 20463 of 2015 (G)

Dated this the 28th day of September, 2015

J U D G M E N T

The petitioners in both the writ petitions are aggrieved with the delay in deciding on the issue of enhancement of retirement age in the Kerala Health Research & Welfare Society.

2. The petitioner in W.P.(C) No.20463/2015 is, at present, working in the Society, but due to retire on 30.09.2015. The petitioners in the other writ petition have already retired. Both the writ petitions have been filed on the ground that a proposal has been approved by the Board of the 2nd respondent to enhance the retirement age from 58 to 60. It is also submitted that in many other Public Sector Organizations under the State of Kerala, the retirement age has been enhanced from 58 to 60.

3. In this context, the counter affidavit filed by the Society in W.P.(C) No.31960/2014 assumes relevance, is the argument. The learned counsel appearing for the petitioner in W.P.(C) No.20463/2015 refers to Ext.R1(b), produced in the other writ petition, to contend that it is pursuant to such decision of the Governing Body that Ext.P6 letter was addressed by the Managing Director to the Principal Secretary; upon which the Principal Secretary had replied, as per Ext.P8, seeking a concrete proposal as to the enhancement of the retirement age.

4. The counter affidavit of the Society, however, indicates that the letter addressed to the Principal Secretary, which is relied on by the petitioner, is only with respect to formation of a Committee to decide the various issues, upon which a decision had to be taken only after the Committee's proposals are received. As to the retirement age, the specific contention of the respondent is that there

is no proposal to increase the age of superannuation from 58 to 60, nor is such a decision taken by the Governing Body. The Governing Body has merely constituted a Committee to study the issue, which Committee has to submit a report before the Governing Body decides on the issue itself. Hence, there can be no continuation of the petitioner since the petitioner has already reached the retirement age.

5. The learned counsel for the petitioner in W.P.(C) No.31960/2014 submits that there was an interim order making them eligible to the monetary benefits, if a decision is taken in their favour. The interim order was only in so far as the writ petition being allowed. It is not for this Court to direct the fixation of superannuation age in any entity. Various factors and balancing considerations have to be taken into account; which as rightly stated by the

respondent is to be considered by the Governing Body. But pending such decision, no continuance can be directed. The Committee having not yet decided to enhance the retirement age, this Court is of the opinion that the writ petitions are devoid of merit and the same are dismissed. The retirement benefits of the petitioners shall be computed and disbursed at the earliest.

Sd/-
K.VINOD CHANDRAN,
JUDGE