

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 19361

WP(C).No. 34329 of 2014 (M)

PETITIONER(S) :

1. C.P. JAMES, AGED 49 YEARS
SON OF LATE POULOSE C.P., CHIRAYATH HOUSE, PAROPPADY
MARIKUNNU P.O., KOZHIKODE - 673 012.
2. C.VIJAYAN
SON OF LATE C.APPUTTI,
KOLAVANKAVIL HOUSE, KAKKODI P.O.
KOZHIKODE.
3. PRADHAKRISHNAN
SON OF LATE ACHUTHAN NAIR, PAREMMAL HOUSE
KURIKKELAD P.O., VATTAKAVU - 673 104.
4. C.K.AJITH KUMAR
SON OF SHRI APPU,
RESIDING AT KAIPURATH THAZHATH HOUSE
ERANJIKKAL P.O., KOZHIKODE - 673 303.

BY ADV. SRI.N.ANILKUMAR

RESPONDENT(S) :

1. THE KERALA WATER AUTHORITY
THIRUVANANTHAPURAM
REPRESENTED BY THE MANAGING DIRECTOR
THIRUVANANTHAPURAM - 695 033.
2. STATE OF KERALA
REPRESENTED BY THE SECRETARY
WATER RESOURCES (WATER SUPPLY) DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
3. THE CHIEF ENGINEER
KERALA WATER AUTHORITY, KOZHIKODE - 9.
4. THE EXECUTIVE ENGINEER
P.H.DIVISION, KERALA WATER AUTHORITY, KOZHIKODE - 9.

BY ADV. SRI.GEORGE MATHEW, SC, KERALA WATER AUTHORITY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: TRUE COPY OF THE DETAILS OF THE MUSTER ROLLS OF THE PETITIONERS FROM 1.3.1986 TO 1.10.1987.
- EXT.P-2: TRUE COPY OF THE CERTIFICATE NO.CE/NR/E4-6086/04 (1) DATED 10/16-11-2004 ISSUED BY THE CHIEF ENGINEER, KERALA WATER AUTHORITY, KOZHIKODE SHOWING THAT ALL THE PETITIONERS HAVE GOT MORE THAN 500 DAYS SERVICE ALONG WITH ITS ENGLISH TRANSLATION.
- EXT.P-2(A): TRUE COPY OF THE CERTIFICATE NO.CE/NR/E4-6086/04 (2) DATED 10/16-11-2004 ISSUED BY THE CHIEF ENGINEER, KERALA WATER AUTHORITY, KOZHIKODE SHOWING THAT ALL THE PETITIONERS HAVE GOT MORE THAN 500 DAYS SERVICE ALONG WITH ITS ENGLISH TRANSLATION.
- EXT.P-2(B): TRUE COPY OF THE CERTIFICATE NO.CE/NR/E4-6086/04 (3) DATED 10/16-11-2004 ISSUED BY THE CHIEF ENGINEER, KERALA WATER AUTHORITY, KOZHIKODE SHOWING THAT ALL THE PETITIONERS HAVE GOT MORE THAN 500 DAYS SERVICE ALONG WITH ITS ENGLISH TRANSLATION.
- EXT.P-3: TRUE COPY OF THE GOVERNMENT ORDER (MS) NO.5/91/LAD DATED 5.1.1991.
- EXT.P-4: TRUE COPY OF THE JUDGEMENT OF THIS HONOURABLE COURT DATED 1.4.1991 IN ORIGINAL PETITION NO.3622 OF 1991.
- EXT.P-5: TRUE COPY OF THE ORDER DATED 29.9.1992 ISSUED BY THE ASSISTANT EXECUTIVE ENGINEER.
- EXT.P-6: TRUE COPY OF THE JUDGEMENT OF THIS HONOURABLE COURT DATED 28.3.1996 IN ORIGINAL PETITION NO.3477 OF 1992 (L).
- EXT.P-7: TRUE COPY OF THE JUDGEMENT OF THIS HONOURABLE COURT DATED 12.12.2012 IN WRIT PETITION (CIVIL) NO.19223 OF 2012.
- EXT.P-8: TRUE COPY OF THE JUDGEMENT OF THIS HONOURABLE COURT DATED 20.3.2013 IN WRIT PETITION (CIVIL) NO.19056 OF 2009 (B).
- EXT.P-9: TRUE COPY OF THE REPRESENTATION DATED 5.12.2014 SUBMITTED BY THE PETITIONER BEFORE THE MANAGING DIRECTOR, KERALA WATER AUTHORITY.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.34329 of 2014

Dated this the 6th day of January, 2015

JUDGMENT

Petitioners were CLR Workers with the Kerala Water Authority during 1986-1987. They were also re-engaged in the year 1991. The issue pertains to the regularization of the appointment. The petitioners submit that they have approached this Court in O.P.No.3477 of 1992. Thereafter, it was challenged in O.P.No.15014 of 1996. The challenge was unsuccessful before the Single Judge. The petitioners challenged the decision of the Single Judge in Writ Appeal No.738 of 2002. The Writ Appeal also was dismissed. The petitioners submit that their claim would fall within the ambit of Clause 6 (iii) of Ext.P3 order. Therefore, the petitioners made a representation by Ext.P9 to reconsider the matter. The petitioners submit that similarly engaged workers by

virtue of Ext.P7 order of this Court has been regularized. Therefore, the petitioners submit that their case also be considered by the Kerala Water Authority. If this Court directs the authority to consider the petitioners' representation, that would amount to reopening the earlier concluded judgment of this Court. The petitioners could have raised the ground now urged in earlier round of litigation. Having failed to do so, the petitioners cannot raise the new plea in this writ petition.

In view of the facts and circumstances, this Court cannot direct the Kerala Water Authority to consider the representation submitted by the petitioners before the first respondent by Ext.P9.

In view of the above, the writ petition is dismissed.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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