

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 34396 of 2014 (Y)

PETITIONER(S) :

ABHILASH A.A. ,
S/O. ABRAHAM S. , ABHILASH MANDIRAM,
THUNDATHIL P.O. ,
KARIYAVATTOM, THIRUVANANTHAPURAM-695 581.

BY ADV. SRI.KALEESWARAM RAJ.

RESPONDENT(S) :

1. BHARAT PETROLEUM CORPORATION LTD. ,
REPRESENTED BY THE CHAIRMAN AND MANAGING DIRECTOR,
BHARAT BHAVAN, 4 & 6 CURRIMBOY ROAD, BALLARD ESTATE,
P.B. NO. 688, MUMBAI-400 001.
2. SENIOR MANAGER (R & P) ,
BHARAT PETROLEUM CORPORATION LTD. ,
KOCHI REFINERY POST BAG NO.2, AMBALAMUGHAL,
KOCHI-682 302.
3. THE TERRITORY MANAGER,
BHARAT PETROLEUM CORPORATION LTD. , KOCHI LPG,
LPG FILLING PLANT, KOCHI REFINERY, AMBALAMUGHAL,
ERENAKULAM-682 302.

BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR

BY ADV. SRI.P.GOPINATH

BY ADV. SRI.P.BENNY THOMAS

BY ADV. SRI.K.JOHN MATHAI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT. P1. TRUE COPY OF THE NOTIFICATION DOWNLOADED FROM THE OFFICIAL WEBSITE OF THE RESPONDENT CORPORATION.

EXT. P2. TRUE COPY OF THE E-MAIL COMMUNICATION DATED 14-5-2014 FROM THE RESPONDENT CORPORATION INTIMATING ABOUT THE INTERVIEW.

EXT. P3. TRUE COPY OF THE E-MAIL COMMUNICATION DATED 13-6-14.

EXT. P4. TRUE COPY OF THE RESULT OF HEARING TEST OF THE PETITIONER DATED 13-9-14.

RESPONDENT(S) ' EXHIBITS :

EXT. R1(A) . TRUE COPY OF THE RELEVANT PAGE OF OSID GUIDELINES.

EXT. R1(B) . TRUE COPY OF THE AUDIO GRAM REPORT DATED 20/06/2014 ISSUED BY DR.K.C.KURIAN.

R1(C) . TRUE COPY OF THE MEDICAL REPORT DATED 23/06/2014 ISSUED BY DR.K.C.KURIAN.

EXT. R1(D) . TRUE COPY OF THE PRE-EMPLOYMENT MEDICAL EXAMINATION REPORT DATED 27/06/2014 GIVEN BY THE COMPANY MEDICAL OFFICER.

EXT. R1(E) . TRUE COPY OF THE LETTER DATED 22/01/2015 ISSUED BY THE COMPANY MEDICAL OFFICER.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.MUHAMED MUSTAQUE, J.

W.P.(C)No.34396 of 2014

Dated this the 26th day of February, 2015

JUDGMENT

The petitioner applied for the post of General Workman B (Trainee) Fitter. The petitioner submits that he has successfully passed the written test and interview and called for the Medical Examination. However, the petitioner was denied appointment without any valid reason. Accordingly, the petitioner has approached this Court.

2. The appointment is with the Bharat Petroleum Corporation Limited. The post of Trainee Fitter requires certain medical conditions. Along with the counter affidavit, the guidelines for Occupational Health Monitoring in Oil & Gas Industry is produced as Ext.R1(a). It refers certain level of medical fitness. It is submitted in the counter affidavit that the petitioner was examined for medical fitness and the audiogram report of the petitioner would indicate that he is

not fit for employment in Oil and Gas Industry on account of certain bilateral hearing sensitivity. The petitioner disputes the finding in audiogram report produced before this Court. It is submitted that in the light of Ext.P4, the audiogram report is unsustainable.

3. Necessarily, in this case, the petitioner was denied appointment based on an appraisal of the certain factual finding in relation to the petitioner's hearing capability. This Court while exercising power under Article 226 of the Constitution cannot interfere with such decision. However, the court can examine decision making process arrived by the authority in declining employment. In this case, the audiogram report dated 13.9.2014 produced by the petitioner was relied by the authority to decline appointment. The reports relied by the authorities referred to audiogram conducted at the Occupational Health Centre of

the Bharat Petroleum Corporation Limited on 20.6.2014 and again at the Clinic of Dr.K.C.Kurian, ENT Specialist and including the report of the Santhwana Hospital (P) Limited, Thiruvananthapuram, produced by the petitioner.

I am of the view that the petitioner shall raise his objection on any finding made by the first respondent against the petitioner with reference to the relevant report. If the petitioner finds that conclusion made by the authorities is erroneous or unsustainable, necessarily, he can point out the same with reference to the report and relevant guidelines. Thereafter, the authority shall consider that objection and find out whether the petitioner's case requires reconsideration. The petitioner shall raise his objection within a period of two weeks. Thereupon, necessary decision shall be taken after adverting to the guidelines. The petitioner is also free to make the request for re-examination.

If the petitioner is found fit in terms of the guidelines, necessarily, he shall be considered for appointment in accordance with the merit. Needful shall be done within six weeks after receiving objection from the petitioner.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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