

T.D.Bashardeen Vs. Kerala State Council for Science, Technology and Environment

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Court : Kerala

Decided On : Oct-07-2013

Judge : Honourable Mr.Justice C.T.Ravikumar

Appellant : T.D.Bashardeen

Respondent : Kerala State Council for Science, Technology and Environment

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR MONDAY, THE 7TH DAY OF OCTOBER 2013 15TH ASWINA, 1935 WP(C).No. 8269 of 2013 (G) ----- PETITIONER(S): ----- T.D.BASHARDEEN, AGED 56 YEARS S/O.T.P.DHAWOOD, PERSONAL ASSISTANT TO REGISTRAR CENTRE FOR EARTH SCIENCE STUDIES, AKKULAM, P.B.NO.7250 THIRUVANANTHAPURAM-695031, RESIDING AT MERA128TC2752(4), CHALAKKUZHY ROAD, MEDICAL COLLEGE P.O. THIRUVANANTHAPURAM-695011. BY ADVS.SRI.K.T.SHYAMKUMAR SRI.HARISH R. MENON SRI.R.NARENDRAN NAIR RESPONDENT(S): ----- 1. KERALA STATE COUNCIL FOR SCIENCE, TECHNOLOGY & ENVIRONMENT SASTHRA BHAVAN, PATTOM.P.O., THIRUVANANTHAPURAM-695004 REPRESENTED BY THE EXECUTIVE VICE-PRESIDENT PIN-695001.

2. THE DIRECTOR CENTRE FOR EARCH SCIENCE STUDIES, AKKULAM, P.B.NO.7250 THIRUVANANTHAPURAM-695031.

3. STATE OF KERALA REPRESENTED BY ITS PRINCIPAL SECRETARY TO FINANCE FINANCE DEPARTMENT, GOVERNMENT SECRETARIAT THIRUVANANTHAPURAM-695001. R1 BY ADV. SRI.GEORGE ZACHARIAH,SC,KSCSTE R2 BY ADV. SRI.V.KRISHNA MENON R3 BY ADV. SRI. T.R.RAJESH THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07.10.2013, ALONG WITH WPC. 9277/2013, WPC. 9285/2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 8269 of 2013 (G) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- EXHIBIT P1: COPY OF THE

ORDER

DATED 20.5.2010 ISSUED BY THE REGISTRAR 2D RESPONDENT PROMOTING THE PETITIONER TO THE POST OF PA TO REGISTER EXHIBIT P2: COPY OF THE

ORDER

NO.16/2013/KSCSTE DATED 21.11.2013 ISSUED BY THE 1ST RESPONDENT EXHIBIT P3: COPY OF THE GO(P) NO.82/99/STED DATED 28.1.1999 ALONG WITH THE RELEVANT ANNEXURE EXHIBIT P4: COPY OF THE REPRESENTATION DATED 22.2.2013 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT RESPONDENT(S)' EXHIBITS: NIL //TRUE COPY// P.A. TO JUDGE. dlk C.T.RAVIKUMAR, J ----- W.P.(C) Nos. 8269, 9277 & 9285 of 2013 ----- Dated this the 7th day of October, 2013

JUDGMENT

The petitioners in these writ petitions are holding different posts under the second respondent, the Centre for Earth Science Studies under the Kerala State Council for Science Technology & Environment. As per G.O.(P) No.85/2011 Fin. dated 26.02.2011 and G.O.(P) No.143/2011/Fin. dated 30.3.2011 Government revised the pay and allowances in relation to Government employees and teachers of the State, with effect from 1.7.2009. Going by the said order for getting such benefits

of revision of pay and allowances extended to their employees autonomous bodies had to submit separate proposals to the Government in the Finance Department through the administrative departments. Accordingly, the first respondent submitted such a proposal. Later, G.O.(MS)1/2013/S&TD dated 18.01.2013 was issued. In the matter of revision of pay and allowances of employees of the first respondent Ext.P2 order, marked as such in W.P.(C) No.8269/2013 was issued. Clause 1 thereunder reads thus:- "1. The employees who were sanctioned higher scales than the corresponding revised scales in 2004 pay revision, on W.P.(C) Nos. 8269, 9277 & 9285 of 2013 2 the basis of G.O.(P) No.82/1999/Fin dated 02.08.1999 as personal scale will not be granted the corresponding revised scale of the higher personal scale other than specifically ordered. If anybody is adversely affected by the scale of pay arrived to the post of Registrar, the Kerala State Council for Science, Technology & Environment (KSCSTE) should take up such cases with sufficient justification for considering personal scale to such incumbents." 2. It is thus evident that any grievance regarding Ext.P2 in respect of the post of Registrar under the first respondent has to be taken up with sufficient justification for considering personal scale such incumbents by the council. But, in the case of the other employees under the second respondent working in the Centre for Earth Science Studies like the petitioners nothing was mentioned in Ext.P8 as to the manner in which they could seek for redressal of their grievances against Ext.P2. The petitioners and the similarly situated persons having certain grievances against Ext.P2 order dated 21.1.2013 issued by the first respondent and they took up their grievances before the first respondent. Essentially, it is the delay in the matter of consideration of such grievances that constrained the petitioners to approach this Court by filing the captioned writ petitions. W.P.(C) Nos. 8269, 9277 & 9285 of 2013 3 3. A statement has been filed on behalf of the first respondent in W.P.(C) No.8269/2013. A memo adopting the same was filed in the other writ petitions. The contention of the first respondent is that the grievance of the petitioners are matters to be considered by the Government and in fact, the first respondent could only take up the grievances before the Government. It is also stated therein that pursuant to the receipt of representations from the petitioners carrying their grievances in the matter of fixation of their pay, pursuant to the revision based on Ext.P2 the representations along with connected records

were forwarded for consideration of the Government. However, no decision has been taken thereon, so far.

4. I have heard the learned counsel appearing for the petitioners, learned standing counsel appearing for the first respondent, the learned standing counsel appearing for the second respondent and also the Government Pleader.

5. Obviously, pursuant to the G.O.(MS) 1/2013/S&TD dated 18.01.2013 the first respondent issued Council (M) Order No.16/2013/KSCSTE dated 21.01.2013 viz., W.P.(C) Nos. 8269, 9277 & 9285 of 2013 4 Ext.P2 in W.P.(C) No.8269/2013. A scanning of the contentions of the petitioners would reveal that their grievances pertain to the fixation of pay pursuant to Ext.P2. Raising their grievance in the matter of fixation of pay petitioners in W.P.(C) No.8265/2013 submitted Ext.P5 representation before the first respondent. The petitioners in W.P.(C) No.9277/2013 filed similar representations viz., Exts.P3 to P5, respectively. The petitioners in W.P.(C) No.9285/2013 filed Exts.P3 and P4 representations, respectively. It is obvious from the statement filed on behalf of the common first respondent that all such representations along with records were forwarded for consideration of the 3rd respondent, the Government. Though such grievances of the employees under the first respondent were brought to the notice of the Government the matter is still pending consideration. It is to be noted that as per Ext.P2 in W.P.(C) No.8269/2013 any grievance regarding the implementation of Ext.P2 as regards the post of Registrar it could be taken up by the first respondent, obviously, before the Government. Though no such specific clause relating other categories of posts under the first respondent has been given in Ext.P2 taking note of Clause 13 in G.O.(MS) W.P.(C) Nos. 8269, 9277 & 9285 of 2013 5 1/2013/S&TD dated 18.01.2013 the first respondent forwarded all the representations received from the petitioners against Ext.P2 along with connected records for consideration of the Government. In this context it is relevant to refer to Clause 13 in G.O.(MS)1/2013/S&TD dated 18.01.2013. It reads thus:- "13. In case of any doubt regarding pay scales, fixation etc prior concurrence of Finance Department through Administrative Department in Government shall be obtained before arriving at a decision." 6. The contention of the first respondent is that it is taking note of the said Clause in the said G.O.(MS) 1/2013/S&TD dated

18.01.2013 that on receipt of the aforementioned representations from the petitioners carrying their grievances in the matter of pay fixation, were forwarded to the Government for appropriate directions/clarification. Obviously, the said petitions are pending before the Government. In the said circumstances without making any observation as to the merits of the contentions these writ petitions are disposed of as hereunder:- In case the representations submitted by the petitioners viz., Ext.P4 by the petitioner in W.P.(C) No.8269/2013, Exts.P3 W.P.(C) Nos. 8269, 9277 & 9285 of 2013 6 to P5 respectively by the petitioners in W.P.(C) No.9277/2013 and Exts.P3 and P4 representations respectively by the petitioners in W.P.(C) No.9285/2013, are already forwarded by the first respondent before the Government they shall considered by the third respondent. In case they are not yet forwarded they shall be forwarded to the 3rd within two weeks from the date of receipt of a copy of this judgment .After considering such representations appropriate orders, in accordance with law, shall be passed expeditiously, at any rate, within a period of four months from the date of receipt of a copy of this judgment. In case the petitioners are desirous to make any supplemental representations it will be open them to make such supplemental representations within a period of one week from the date of receipt of a copy of this judgment. These writ petitions are disposed of accordingly. Sd/- C.T.RAVIKUMAR,JUDGE.
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