

B.Pushpangathan Vs. State of Kerala

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Court : Kerala

Decided On : Jan-24-2014

Judge : Honourable Mr.Justice K.Vinod Chandran

Appellant : B.Pushpangathan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN FRIDAY, THE 24TH DAY OF JANUARY 2014 4TH MAGHA, 1935 WP(C).No. 31519 of 2013 (L)

----- PETITIONER(S): -----

B.PUSHPANGATHAN, PUTHUPPARAMBIL HOUSE, KARUVATTA P.O., ALAPPUZHA DISTRICT., PIN - 682 317. BY ADVS.SRI.A.K.GOPALAN SRI.V.N.MOHAN RAJ RESPONDENT(S): ----- 1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.

2. MANAGING DIRECTOR, KERALA STATE BEVERAGES CORPORATION, THIRUVANANTHAPURAM, PIN - 695 001. R1 BY GOVERNMENT PLEADER SMT. K.T.LILLY R2 BY ADV. SRI.C.S.AJITH PRAKASH, SC, BEVERAGES CORPN. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-01-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Kss WP(C).No. 31519 of 2013 (L) -----

APPENDIX PETITIONER(S)' EXHIBITS: ----- EXHIBIT P1

: TRUE COPY OF THE

JUDGMENT

R.P.744/2004 DATED1801.2013 OF THIS HON'BLE HIGH COURT. EXHIBIT P2 : TRUE COPY OF NO.C.C-2/2003/S8/CR DATED3010.2003 OF THE EXCISE CIRCLE INSEPCTOR, CHERTHALA. EXHIBIT P3 : TRUE COPY OF THE NOTICE VIDE

ORDER

NO.A1/4419/2002 DATED1809.2004 OF ASST EXCISE COMMISSIONER ALAPPUZHA. EXHIBIT P4 : TRUE COPY OF THE INTIMATION BY E-POST MESSAGE ID23173 1426033-320 DATED2808.2013 OF THE C.M.OF KERALA. EXHIBIT P5 : TRUE COPY OF THE INTIMATION BY E-POST ID.33339-1426525-23 DATED2409.2013 OF THE MINISTER OF EXCISE. EXHIBIT P6 : TRUE COPY OF THE LETTER NO.20099/A3/13/TD DATED0410.2013 FROM THE GOVT SECRETARY TAXES. RESPONDENT(S)' EXHIBITS:

----- N I L /TRUE COPY/ P.A.TO JUDGE Kss K. VINOD CHANDRAN, J ===== W.P(C) No. 31519 of 2013 ===== Dated this the 24th day of January, 2014

JUDGMENT

The petitioner claims that he is a registered Abkari worker, who was working in Arrack shop No.5 at Karuvatta near Karthikappally Range from 1987 onwards and that on the ban of Arrack being introduced in the State of Kerala, he was sent out of employment.

2. The petitioner's grievance is that, he has not been accommodated in the Kerala State Beverages Corporation as has been done in the case of other Abkari workers, on the ban of Arrack being introduced within the State. The petitioner relies on Ext. P1 judgment, in review petition, to advance his contention.

3. The learned counsel for the respondent Corporation however, points out that W.P.(C) No. 35139 of 2003 was filed by four petitioners who claimed employment

in the Corporation on the introduction of the ban on Arrack. The claim of the first three petitioners were allowed by the learned single Judge and W.P(C) No. 31519 of 2013 2 the 4th petitioner therein, who is the petitioner herein, was declined relief. Subsequently, the Corporation had filed a writ appeal against the judgment dated 16.04.2004 in W.P.(C) No. 35139 of 2003. The judgment of the single Judge granting relief to the other three petitioners was set aside by the Division Bench.

4. Subsequently, without disclosing the said fact, a review petition was filed as R.P. No. 744 of 2004 contending that though the judgment of 16.04.2004 declined relief to the petitioners, for reason that the petitioner is not included in the seniority list prepared for rehabilitation, later on, his name has been included. A learned single Judge of this Court by Ext. P1 directed that if such inclusion has been made, the petitioner shall also be considered for appointment as the others were accommodated.

5. As was noticed above, the petitioner did not disclose that the judgment dated, 16.04.2004 itself was set aside in appeal. The Corporation hence filed an I.A pointing out the dismissal of the claim itself in Writ Appeal No. 1167 of 2004 and the learned single judge by judgment dated, 18.01.2013 in R.P. W.P(C) No. 31519 of 2013 3 No. 744 of 2004 in W.P.(C) No. 35139 of 2003 recalled Ext. P1 and dismissed the review petition. In such circumstances, no claim subsists for the petitioner. Writ petition hence stands dismissed as devoid of merit. Petitioners are left to suffer this costs. K. VINOD CHANDRAN, JUDGE. SB

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