

Mohammed Sidheeque.M. Vs. the Managing Director

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Court : Kerala

Decided On : Feb-26-2014

Judge : Honourable Mr. Justice a.V.Ramakrishna Pillai

Appellant : Mohammed Sidheeque.M.

Respondent : The Managing Director

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI WEDNESDAY, THE 26TH DAY OF FEBRUARY 2014 7TH PHALGUNA, 1935 WP(C).No. 33390 of 2011 (W) ----- PETITIONER : ----- MOHAMMED SIDHEEQUE M., T.C. NO. 3/353 HALEMA VILLA, HOUSE NO. 2 ALAPPURAM LANE MUTTADA P.O., THIRUVANANTHAPURAM- 695 035. BY ADVS.SRI.POOVAPPALLY M. RAMACHANDRAN NAIR SRI.P.S.SURESH KUMAR RESPONDENT(S) : ----- 1. THE MANAGING DIRECTOR KERALA STATE AUDIO - VISUAL AND REPROGRAPHICAL CENTRE (C-APT-CENTRE FOR ADVANCE PRINTING TECHNOLOGY) VATTIYOORKKAVU, THIRUVANANTHAPURAM - 695 013.

2. MANAGING DIRECTOR KERALA STATE INDUSTRIAL ENTERPRISES LTD ST. JOSEPH'S PRESS BUILDINGS COTTON HILL THIRUVANANTHAPURAM - 695 014.

3. STATE OF KERALA REPRESENTED BY ITS SECRETARY TO GOVERNMENT DEPARTMENT OF EDUCATION/INDUSTRIES THIRUVANANTHAPURAM - 695 001. R1 BY ADVS. SRI.K.ANAND SMT.LATHA KRISHNAN SRI.JOSEPH SEBASTIAN (PARACKAL) R2 BY ADVS. SRI.E.K.NANDAKUMAR SRI. M. GOPIKRISHNAN NAMBIAR SRI. JOHN MATHAI K. SRI. BENNY P. THOMAS SRI. P. GOPINATH MENON R3 BY SR. GOVT. PLEADER SRI. P.FAZIL THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/02-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Mn ...2/- WP(C).No. 33390 of 2011 (W) APPENDIX PETITIONER'S EXHIBITS : EXT.P1 : PHOTOCOPY OF THE

ORDER

NO. KS AVRC/140/93 DATED 12.1.1993. EXT.P2 PHOTOCOPY OF THE

ORDER

KS AVRC/652/94 DATED 16.4.1994. EXT.P3 PHOTOCOPY OF THE RELIEVING

ORDER

NO. KS AVRC/452/93 DATED 12.6.1994. EXT.P4 PHOTOCOPY OF THE

ORDER

NO. K.S.A.V.R.C/452/93 DATED 23.5.1995. EXT.P5 PHOTOCOPY OF THE

ORDER

NO. K.S.A.V.R.C11098 DATED 6.3.1996. EXT.P6 PHOTOCOPY OF THE

ORDER

NO. KSAVRC/140/93(3) DATED 9.12.1998. EXT.P7 PHOTOCOPY OF THE

ORDER

NO. KSAVRC/452/93 DATED 6.3.2000. EXT.P8 PHOTOCOPY OF THE RELIEVING

ORDER

DATED 22.2.2002. EXT.P9 PHOTOCOPY OF THE GOVERNMENT

ORDER

G.O.(RT) NO. 04/04/ID DATED291.2004. EXT.P10 PHOTOCOPY OF THE PROCEEDINGS NO. HR/04/1466 DATED42.2004. EXT.P11 PHOTOCOPY OF THE LETTER NO. HR/04/151 DATED155.2004. EXT.P12 PHOTOCOPY OF THE LETTER NO. HR/04/69/176 DATED195.2004. EXT.P13 PHOTOCOPY OF THE LETTER NO. KSAVRC/1525/05 DATED102.2005. EXT.P14 PHOTOCOPY OF THE LETTER NO. HR/04/69/1309 DATED232.2005. (Contd...) WP(C).No. 33390 of 2011 (W) EXT.P15 PHOTOCOPY OF THE LETTER NO. HR/04/798 DATED159.2011. EXT.P16 PHOTOCOPY OF THE

JUDGMENT

IN WP(C) NO. 37054 OF 2009 OF HON'BLE HIGH COURT OF KERALA. RESPONDENT'S EXHIBITS : NIL //TRUE COPY// P.S. TO JUDGE Mn A.V.RAMAKRISHNA PILLAI, J ----- W.P.(C) No.33390 of 2011 ----- Dated this the 25th day of February, 2014

JUDGMENT

Aggrieved by the inaction on the part of the first respondent in releasing the arrears of salary and other service benefits to the petitioner in spite of repeated requests, the petitioner has come up before this Court.

2. The petitioner alleges that he was working under the first respondent as Helper since 1993 and he was relieved from service on 2.2.2002 since he got appointment by deputation as Attender in the Kerala State Industrial Enterprises Limited, Thiruvananthapuram. According to the petitioner, the same was accepted by the Government as per Ext.P9. WPC No.33390 of 2011 2 3. The grievance of the petitioner is that there was a series of correspondence relating to the service benefits between his parent employer and the present employer. However, the first respondent was refusing the service benefits such as gratuity, earned leave surrender etc. for one reason or other. He would further alleges that other similarly placed employees' requests and judgments of this Court were honoured by the respondents.

4. According to the petitioner, a total sum of Rs.82,503/- with subsequent enhancement of salary and other service benefits are to be paid to the petitioner. It

is with this background, the petitioner has come up before this Court.

5. Though no counter has been filed by the first respondent, the learned counsel for the respondents submitted that the salary and other benefits due to the employees working under the first respondent is being released in a phased WPC No.33390 of 2011 3 manner and if concession is extended to the petitioner alone, it will deprive the other workers with the said benefit and it may not be possible to give the same benefits to all the other workers.

6. In support of the said argument, the learned counsel for the first respondent placed before me a decision of the learned Single Judge of this Court in WPC No.13032/2012, wherein it was held that this Court would not be justified to give a direction to pay the arrears of salary to the petitioners in that case only having regard to the fact that there were 740 other members waiting in queue for recovering arrears of salary.

7. The argument advanced by the first respondent cannot be countenanced in the light of the fact that they have not denied the eligibility of the petitioner to get the service benefits as claimed in the writ petition. It is unfair to ask the contention that the petitioner to wait in the queue without approaching this Court. WPC No.33390 of 2011 4 8. Having considered the entire facts and circumstances of this case, this Court is of the definite view that the petitioner is entitled to the benefits as prayed for. Therefore, this writ petition is allowed. The first respondent is directed to disburse the arrears of salary and other service benefits such as terminal surrender, leave surrender, pay revision arrears, bonus balance, gratuity etc. within a period of three months from today. To facilitate an early action, it shall be open to the petitioner to produce a copy of the writ petition as well as a copy of this judgment before the first respondent within a period of one month from the date of receipt of a copy of this judgment. If the first respondent is disputing the quantum made mention of in the writ petition, the petitioner shall be given an opportunity of being heard in the matter before the final decision is WPC No.33390 of 2011 5 taken. The amount shall be released to the petitioner within the time frame already fixed. Sd/- A.V.RAMAKRISHNA PILLAI JUDGE css/ true copy P.S.TO JUDGE