

M.Pareeth Vs. the Kerala Small Industries Development Corporation

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Court : Kerala

Decided On : Aug-19-2014

Judge : Honourable Mr. Justice a.K.Jayasankaran Nambiar

Appellant : M.Pareeth

Respondent : The Kerala Small Industries Development Corporation

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR TUESDAY, THE 19TH DAY OF AUGUST 2014 28TH SRAVANA, 1936 WP(C).No. 20787 of 2012 (W) ----- PETITIONER(S): ----- M.PAREETH, AGED 61 YEARS MANAGER (RTD), KERALA SMALL INDUSTRIES DEVELOPMENT CORPORATION LTD. R M DIVISION, ERNAKULAM. BY ADVS.SRI.C.A.NAVAS SRI.T.K.SASIKUMAR SMT.C.S.SIMI RESPONDENT(S): ----- 1. THE KERALA SMALL INDUSTRIES DEVELOPMENT CORPORATION LTD REPRESENTED BY THE MANAGING DIRECTOR HOUSING BOARD BUILDING, SHANTHI NAGAR THIRUVANANTHAPURAM, PIN-695001.

2. CHAIRMAN AND EXECUTIVE DIRECTOR THE KERALA SMALL INDUSTRIES DEVELOPMENT CORPORATION LTD. REPRESENTED BY THE MANAGING DIRECTOR HOUSING BOARD BUILDING, SHANTHI NAGAR THIRUVANANTHAPURAM, PIN-695001.

3. THE ADMINISTRATIVE OFFICER, THE KERALA SMALL INDUSTRIES DEVELOPMENT CORPORATION LTD. REPRESENTED BY THE MANAGING DIRECTOR HOUSING BOARD BUILDING, SHANTHI NAGAR THIRUVANANTHAPURAM, PIN-695001.

4. THE SECRETARY TO THE GOVERNMENT, FOR HONOURABLE MINISTER FOR INDUSTRIES INDUSTRIES DEPARTMENT, GOVERNMENT OF KERALA THIRUVANANTHAPURAM. 695 001 5. P.O.OUSEPH, ASST. GENERAL MANAGER (RETIRED) SIDCO RM DIVISION ERNAKULAM683031 R1-R3 BY ADV. SRI.R.T.PRADEEP R1-R2 BY ADV. SMT.K.K.RAZIYA, SC, SMALL INDUSTRIES DEVP. CORPN., SIDCO R4 BY GOVERNMENT PLEADER SRI.A.J.JOSE AEDAIODI THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON1908-2014, THE COURT ON THE SAME DAYDELIVERED THE FOLLOWING: W.P.(C).NO.20787/2012 APPENDIX PETITIONER'S EXHIBITS: EXT.P1: COPY OF THE PROCEEDINGS NO.PER(1)/566/03 DATED0904.2003. EXT.P2: COPY OF THE PROCEEDINGS NO.VIG/14067/2001 DATED2706.2003. EXT.P3: COPY OF THE RELEVANT PART OF THE FINAL SENIORITY LIST OF THE PETITIONER NO.NIL. DATED0101.2007. EXT.P4: COPY OF THE REPRESENTATION NO.NIL DATED2704.2005. EXT.P5: COPY OF THE

JUDGMENT

DATED0403.2008 IN W.P.(C).NO.26580/2005 OF THE HONOURABLE HIGH COURT OF KERALA. EXT.P6: COPY OF THE REPRESENTATIO NO.NIL DATED2803.2008. EXT.P7: COPY OF THE PROCEEDINGS NO.PER(2)/9804/07 DATED1205.2008. EXT.P8: COPY OF THE REPRESENTATION NO.NIL DATED2602.2009. EXT.P9: COPY OF THE

JUDGMENT

DATED1512.2010 IN W.P.(C).NO.37305/2010 OF THE HONOURABLE HIGH COURT OF KERALA. EXT.P10: COPY OF THE REPRESENTATION NO.NIL DATED1701.2011. EXT.P11: COPY OF THE PROCEEDINGS NO.RMD/ACC III/ELSS/2002 DATED1803.2011. EXT.P12: COPY OF APPLICATION NO.NIL DATED0504.2011. EXT.P13: COPY OF THE COMMUNICATION NO.SIDCO/RTA/2011 DATED2004.2011. EXT.P14: COPY OF THE

COMMUNICATION NO.RTI-EKM/31/2011 DATED2804.2011. EXT.P15: COPY OF THE COMMUNICATION NO.RTI/EKM/31/2011 DATED2804.2011. EXT.P16: COPY OF THE REPRESENTATION NO.NIL DATED0505.2012. EXT.P17: COPY OF THE REPRESENTATION NO.NIL DATED0505.2012. EXT.P18: COPY OF THE COMMUNICATION NO.SIDCO/RTA/2011 DATED1105.2011. EXT.P19: COPY OF THE ADMINISTRATIVE

ORDER

NO.PER (1)/4113/04 DATED1612.2009. //TRUE COPY// P.S.TO JUDGE A.K.JAYASANKARAN NAMBIAR, J.

----- W.P.(C).NO.20787 OF2012-----

Dated this the 19th day of August, 2014

JUDGMENT

The petitioner retired from the services of the 1st respondent Corporation on 28.2.2009 on attaining the age of superannuation. The grievance of the petitioner in the writ petition is the alleged non-disbursal of differential service benefits that were due to the petitioner especially when similar benefits, it is alleged, were disbursed to other employees in the Corporation, who had been similarly placed as the petitioner. The petitioner specifically makes reference to the case of the 5th respondent, who joined the services of the 1st respondent Corporation only one day prior to the petitioner. It is pointed out that while the petitioner had been representing for differential service benefits for the period from 13.2.1996 to 3.1.2005, the 1st respondent Corporation did not take any action on the repeated requests of the petitioner but they sanctioned similar amounts that were due to the 5th respondent by Ext.P19 proceedings dated 16.12.2009, after the retirement of the petitioner from the services of W.P.(C).NO.20787/2012 2 the 1st respondent Corporation. It is on these facts that the petitioner prefers this writ petition seeking to quash Ext.P13 intimation which states that the petitioner is not entitled to the amounts claimed by him. The petitioner also prays for a direction to the 1st respondent to disburse the differential salary benefits allegedly payable to him, in the like manner as they had disbursed the same to the 5th respondent, by re-fixing his salary.

2. A statement, as well as an additional statement, have been filed by the Standing counsel on behalf of the 1st and 2nd respondents. In the said statements, the stand taken by the 1st and 2nd respondents is that the differential amounts that were paid to the 5th respondent, as evidenced by Ext.P19 proceedings produced by the petitioner, were amounts that were paid pursuant to a stepping up of the pay of the 5th respondent vis-a-vis the pay granted to his immediate junior in service, Sri.Raveendran consequent to the detection of an anomaly in the extension of pay fixation benefits to the employees of the 1st respondent Corporation. It is pointed out that insofar as a similar situation did not arise between the petitioner and any of his juniors consequent to a pay fixation that was effected in the 1st respondent W.P.(C).NO.20787/2012 3 Corporation, the question of sanctioning differential service benefits to the petitioner did not arise.

3. I have heard Adv.Sri.C.A.Navas, learned counsel appearing for the petitioner, Smt.K.K.Raziya, Standing Counsel appearing for respondents 1 to 3 and also Sri.A.J.Jose Aedaodi, learned Government Pleader appearing for the 4th respondent.

4. On a consideration of the facts and circumstances of the case, I find that the claims in the writ petition are premised on an erroneous understanding of the nature of the payments that were disbursed to the 5th respondent by the 1st respondent Corporation. It is evident from a reading of Ext.P19 proceedings as also from Ext.R1 Government Order, which was the basis of Ext.P19 proceedings, that the payments detailed in Ext.P19 were made to the 5th respondent pursuant to a rectification of the junior - senior anomaly that arose while implementing the pay fixation orders in the 1st respondent Corporation. Insofar as there was no anomaly arising out of the pay revision vis-a-vis the petitioner and any other employee, the issue of effecting any such payment as evidenced in Ext.P19 proceedings, to W.P.(C).NO.20787/2012 4 the petitioner in the instant case, did not really arise. The contention of the petitioner as regards the work done in the higher post of Manager also does not merit consideration since the petitioner does not dispute the fact that his lien during the relevant period was in the post of Senior Superintendent. There is no other contention that is urged by the petitioner warranting the grant of a direction as prayed for in the writ petition. In this view of

the matter, the writ petition fails, and it is accordingly dismissed. There will be no order as to costs. A.K.JAYASANKARAN NAMBIAR JUDGE prp

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