

Salim P.E. vs State of Kerala

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Court : Kerala

Decided On : May-31-2023

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/17400/2023

Appellant : Salim P.E.

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH
WEDNESDAY, THE 31ST DAY OF MAY 2023 / 10TH JYAISHTA, 1945
WP(C) NO. 17400 OF 2023 PETITIONER: SALIM P.E. S/O
P.K.IBRAHIM, AGED 58 YEARS DRIVER, DISTRICT MISSION
OFFICE, KUDUMBASREE 2ND FLOOR, CIVILSTATION BUILDING,
KAKKANAD, ERNAKULAM, KERALA 680 030 (RESIDING AT
MADHAVAPPILLY,NETTOOR ERNAKULAM DISTRICT, PIN - 682 004)
BY ADVS. LAKSHMI PRIYA C.B. NAZEER HUZAIN.H FEENA
MELEETA ARUJA RESPONDENTS:

1 STATE OF KERALA REP. BY THE PRINCIPAL SECRETARY TO GOVERNMENT LOCAL SELF GOVERNMENT DEPARTMENT GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001. 2 KERALA STATE POVERTY ERADICATION MISSION (KUDUMBASHREE) REP.BY THE EXECUTIVE DIRECTOR TRIDA REHABILITATION BUILDING MEDICAL COLLEGE.P.O, THIRUVANANTHAPURAM, PIN - 695 011. 3 EXECUTIVE DIRECTOR 'KUDUMBASREE' STATE MISSION TRIDA REHABILITATION BUILDING MEDICAL COLLEGE.P.O, THIRUVANANTHAPURAM, PIN - 695 011. 4 DISTRICT MISSION CO-ORDINATOR KUDUMBASREE, CIVIL STATION P.O., KAKKANAD, ERNAKULAM, PIN - 686 662. BY ADV SRI.PREMCHAND R.NAIR- SENIOR GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31.05.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 31st day of May, 2023 The petitioner is working as Driver in the District Mission Office of Kudumbasree at Ernakulam. Initially he was engaged on daily wage basis. Thereafter, as per Ext.P1 Government Order, he was appointed on scale of pay and was allowed to continue in service till the expiry of the project.

2. The petitioner states that he is not eligible for statutory

pension granted to the State Government Employees. The employees in Kudumbasree are subscribed under Employee Provident Fund Pension Scheme. The employees are also liable to pay contribution. They have to retire from service on the attainment of 56 years or at least 58 years. But, they are not granted statutory pension available to the Government employees. After the introduction of National Pension Scheme, the employees appointed in Government Service in Kerala can continue in service till the attainment of 60 years. But, that benefit is also not extended to the employees in Kudumbasree.

3. Therefore, the Governing Body of the Kudumbasree

decided that the retirement age of the employees in Kudumbasree should be 60 years. Pursuant to the same, a proposal was submitted by the Kudumbasree Mission before the Government for concurrence on enhancement of retirement age of employees in Kudumbasree till the attainment of 60 years. But, it was not considered by the Government, stating that the term of employment of the employees in Kudumbasree cannot be extended as the term expires on the expiration of the project. However, the petitioner was allowed to continue in service up to 58 years due to interference of this Court. The petitioner has to retire from service on 31.05.2023. Unless he is allowed to continue in service till the attainment of 60 years, it will cause irreparable injury and hardship. The petitioner has no other source of income. Therefore, the petitioner filed Exts.P7 and P8 before respondents 1 and 2, seeking permission to continue in service till the attainment of 60 years, but the same is not considered, contends the petitioner.

4. The petitioner is aggrieved by the proposal to retire at

the age of 58 years. The petitioner would urge that employees working under Kudumbasree Units are not entitled to statutory pension and hence it would be harsh to make them retire at the age of 58 years. I am of the view that age of retirement is a policy matter, which has to be decided by the respondents. The petitioner has raised his grievance in this regard before the respondents.

In the facts and circumstances of the case, the writ petition is disposed of directing respondents 1 and 2 to consider Exts.P7 and P8 representations and pass appropriate orders thereon in accordance with law, within a period of two months.

Sd/- N.NAGARESH AMR JUDGE APPENDIX OF WP(C) 17400/2023
PETITIONERS EXHIBITS Exhibit P1 TRUE COPY OF GO(MS)
NO.179/2008/LSGD DATED 26.06.2008. Exhibit P2 TRUE COPY OF RELEVANT
PAGES OF THE AGENDA AND MINUTES OF THE GOVERNING BODY
MEETING OF THE MISSION HELD ON 13.06.2019. Exhibit P3 TRUE COPY OF
LR. NO. IA1/90/2020/LSGD DATED 19.12.2020. Exhibit P4 TRUE COPY OF
JUDGMENT DATED 27-06-2022 IN WP NO. 5046/21 AND CONNECTED CASE

WP(C) NO. 16234/2022. Exhibit P5 TRUE COPY OF GO(MS) NO. 43/2014/P&ARD DATED 27.12.2014. Exhibit P6 TRUE COPY OF GO(MS) NO. 03/2012/S & T DATED 16.04.2012. Exhibit P7 TRUE COPY OF THE REPRESENTATION DATED 20- 03-2023 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT. Exhibit P8 TRUE COPY OF THE REPRESENTATION DATED 20- 03-2023 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

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