

V.C.Mani vs the Union of India

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Court : Kerala

Decided On : Apr-29-2022

Judge : Honourable Mr.Justice V.G.Arun

Appeal No. : WP(C)/1435/2021

Appellant : V.C.Mani

Respondent : The Union of India

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN FRIDAY, THE 29TH DAY OF APRIL 2022 / 9TH VAISAKHA, 1944 WP(C) NO. 1435 OF 2021 PETITIONER: V.C.MANI AGED 60 YEARS S/O CHANDI, VELUPRA HOUSE, PUTHUPPALLY P.O. POOMATTOM, KOTTAYAM. BY ADVS. SRI. C.S.MANILAL SRI.S.NIDHEESH RESPONDENTS:

1 THE UNION OF INDIA REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF PERSONAL AND TRAINING, CENTRAL SECRETARIAT, NEW DELHI-110 001. 2 THE SECRETARY TO GOVERNMENT, MINISTRY OF COMMERCE, GOVERNMENT OF INDIA, CENTRAL SECRETARIAT, NEW DELHI-110 001. 3 THE

RUBBER BOARD, REPRESENTED BY THE SECRETARY, HEAD OFFICE, KOTTAYAM-686 002. BY ADVS. SRI. S. MANU, ASGI SRI. B.PRAMOD, CGC SRI.ABRAHAM JOSEPH MARKOS - R3 SRI.V.ABRAHAM MARKOS SRI.ISAAC THOMAS SRI.P.G.CHANDAPILLAI ABRAHAM SRI.ALEXANDER JOSEPH MARKOS SRI.SHARAD JOSEPH KODANTHARA JOSE ANTONY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31.01.2022, THE COURT ON 29.04.2022, DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 29th day of April, 2022 The petitioner was engaged as Casual Labour in the Rubber Plantation of the Rubber Research Institute of the third respondent from 03.08.1983 onwards and was made a permanent worker on 01.11.1995. While the petitioner was continuing as permanent worker, third respondent conducted an open recruitment for the Group-D post of Peon/Watcher. The causal/permanent workers of the third respondent were also allowed to participate in the selection, along with open market candidates. In the selection thus conducted in the year 1999, the petitioner was ranked No.5. Petitioner is aggrieved by the refusal to appoint him, in spite of his higher rank. Later, by Ext.P4 Scheme, the third respondent extended the benefit of conferment of temporary status to casual labourers. The petitioner alleges that, in spite of his eligibility, he was not given the benefit of Ext.P4, while his juniors were granted temporary status and later regularised. Voicing his grievances the petitioner had approached the third respondent and his representation having failed to evoke any response, the petitioner moved writ petition before this Court, resulting in Ext.P7

judgment directing the third respondent Board to

consider the petitioner's claim. In compliance of the direction, the third respondent considered the claim and rejected the same under Ext.P8 order. Aggrieved, this writ petition is filed seeking to quash Ext.P8 and to direct the third respondent to grant all benefits due to the petitioner under Ext.P4 Scheme, with consequential

appointments as was given to his juniors.

2. Heard Advs. C.S.Manilal for the petitioner and Abraham Joseph Markos for the third respondent.

3. Admittedly, the petitioner was originally

engaged as casual labour and thereafter appointed as permanent worker in the plantations of the Rubber Research Institute of India of the third respondent. The contention of the third respondent that workers of plantations are governed by the Plantation Labour Act, 1951 and the Standing Orders is not disputed. A perusal of Ext.P4 shows that the Scheme envisages grant of temporary status to casual labourers in employment on the date of issue of the Office Memorandum (10.09.1993) and who have rendered continuous service of at least one year (240 days). The Scheme is seen made applicable to casual labourers in employment of the Ministries/ Departments of Government of India and their attached/subordinate offices. Being so, I find substantial merit in the contention of the third respondent that the petitioner being a manual labour governed by the Plantation Labour Act and Standing Orders, is not entitled for the benefit of Ext.P4 Scheme, meant for conferment of temporary status to casual labourers in the employment of Ministries/Departments and attached/subordinate offices. The allegation that identically placed juniors was extended the benefit of Ext.P4 Scheme is controverted by pointing out that the said workmen had been engaged in the maintenance section of the Rubber Research Institute of India and not as manual labour in its plantations.

4. In answer to the petitioner's allegation that, he was denied appointment in spite of being placed at Rank No.5 in the open recruitment, the third respondent has stated as under;

It is respectfully submitted that during 1999, the Board had invited applications for direct recruitment to fill up two vacancies to the post of Peon/Watcher in Kerala in the scale of pay of Rs.2550-55-2660-60-3200.

139 candidates from the employment exchange and 58

casual/permanent workers engaged in RRII farms/nurseries of the Board, who fulfilled the eligibility criteria as per the recruitment rule (RR), had responded to the said advertisement. After preliminary screening, 61 candidates were called for interview from among the entire applicants and a select list (Rank list) was published on 09.07.1999 in which the Petitioner was ranked 5th. Appointment order was given on 26.07.1999 to the first two candidates from the rank list. Later, on 06.04.2000, the 3rd candidate from the said rank list was

given appointment against the vacancy which arose during 2000. Consequent to the expiry of the validity of said rank list and further to the ban on recruitment by the Government of India, no further appointment has been made from the said list to the post of peon/watcher.

5. The respondent having answered all the

allegations raised in the writ petition and moreover, the allegations pertaining to the period 1999-2000 having been raised for the first time in the year 2010, the discretionary jurisdiction under Article 226 cannot be invoked. Further, the petitioner has retired from service on 31.03.2020 and is stated to have received his retirement benefits. For the aforementioned reasons, the writ petition is dismissed. Sd/- V.G.ARUN JUDGE NB APPENDIX OF WP(C) 1435/2021 PETITIONERS EXHIBITS EXHIBIT P1 TRUE COPY OF THE CERTIFICATE DATED 16.12.1996 ISSUED FROM THE RUBBER RESEARCH INSTITUTE OF INDIA EXHIBIT P2 TRUE COPY OF THE APPLICATION DATED 6.9.2010 FILED BY THE PETITIONER UNDER RIGHT TO INFORMATION ACT EXHIBIT P3 TRUE COPY OF THE ANSWERS GIVEN BY CENTRAL PUBLIC INFORMATION OFFICER DATED 4.11.2010 EXHIBIT P4 TRUE COPY OF THE DEPARTMENT OF PERSONNEL AND TRAINING, CAUSAL LABOURERS (GRANT OF TEMPORARY STATUS AND REGULARIZATION) SCHEME (RELEVANT PAGES) EXHIBIT P5 TRUE COPY OF THE RELEVANT PAGES OFFICE MEMORANDUM NO 12/5/91-DIR(C) DATED 29.1.1992 (RELEVANT PAGES) EXHIBIT P6 TRUE COPY OF 21.10.2011 SUBMITTED BY THE PETITIONER TO THE CHAIRMAN OF RUBBER BOARD EXHIBIT P7 TRUE COPY OF THE

JUDGMENT IN WPC 29734/15 DATED 26.7.2019 EXHIBIT P8 TRUE COPY OF THE ORDER NO SECY/4/2019 DATED 14.10.2019 PASSED BY 3RD RESPONDENT EXHIBIT P9 TRUE COPY OF THE SUBSCRIBERS LEDGER CARD DATED 18.9.2017 RESPONDENTS EXHIBITS: EXHIBIT R3(a) TRUE COPY OF THE CERTIFICATE DATED 23.06.2006 ISSUED TO A.M. SABU TRUE COPY P.A. TO JUDGE

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