

Pramod.N.E vs State of Kerala

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Court : Kerala

Decided On : Aug-27-2019

Judge : Honourable Mrs. Justice Anu Sivaraman

Appeal No. : WP(C)/4172/2019

Appellant : Pramod.N.E

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN
TUESDAY, THE 27TH DAY OF AUGUST 2019 / 5TH BHADRA, 1941
WP(C).No.4172 OF 2019(V) PETITIONER: PRAMOD.N.E, AGED 49
YEARS, SCIENTIST -B, ANERT, PMG, THIRUVANANTHAPURAM-695
033. BY ADVS. SRI.KALEESWARAM RAJ SRI.VARUN C.VIJAY
KUM.A.ARUNA KUM.THULASI K. RAJ SMT.RIYA RAYMOL IYPE
RESPONDENTS:

1 STATE OF KERALA, REPRESENTED BY SECRETARY TO
GOVERNMENT, POWER DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001. 2 AGENCY FOR NON

CONVENTIONAL ENERGY AND RURAL TECHNOLOGY, REPRESENTED BY ITS DIRECTOR, KESAVADASAPURAM, THIRUVANANTHAPURAM-695 011. 3 THE DIRECTOR, AGENCY FOR NON CONVENTIONAL ENERGY AND RURAL TECHNOLOGY, KESAVADASAPURAM, THIRUVANANTHAPURAM-695 011. R1 BY SRI. BIJOY CHANDRAN, SR GP R2-3 BY ADV. SRI.T.R.HARIKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27.08.2019, ALONG WITH WP(C).4225/2019(C), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN
TUESDAY, THE 27TH DAY OF AUGUST 2019 / 5TH BHADRA, 1941
WP(C).No.4225 OF 2019(C) PETITIONER: K.PREMKUMAR, AGED 49
YEARS, SCIENTIST - B, ANERT, PMG, THIRUVANANTHAPURAM-
695033. BY ADVS. SRI.KALEESWARAM RAJ SRI.VARUN C.VIJAY
KUM.A.ARUNA KUM.THULASI K. RAJ SMT.RIYA RAYMOL IYPE
RESPONDENTS:

1 STATE OF KERALA, REPRESENTED BY SECRETARY TO
GOVERNMENT, POWER DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695001. 2 AGENCY FOR NON
CONVENTIONAL ENGERGY AND RURAL TECHNOLOGY,
REPRESENTED BY ITS DIRECTOR, KESAVADASAPURAM,
THIRUVANANTHAPURAM-695011. 3 THE DIRECTOR, AGENCY FOR
NON CONVENTIONAL ENERGY AND RURAL
TECHNOLOGY, KESAVADASAPURAM, THIRUVANANTHAPURAM-
695011. R1 BY SRI. BIJOY CHANDRAN, SR GP R2-3 BY ADV.
SRI.T.R.HARIKUMAR R2-3 BY ADV. SRI.ARJUN RAGHAVAN THIS
WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON

27.08.2019, ALONG WITH WP(C).4172/2019(V), THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 27th day of August 2019 The petitioners, who are working as Scientists Grade B in the ANERT, have approached this Court seeking a direction to the respondents to grant promotion to the post of Scientists Grade C to G on the date of their entitlement, going by CSIR norms.

It is submitted that two persons identified themselves for relaxation to the screening and assessment process as provided in the CSIR Rules. It is stated that an order was passed by the Government on the basis of representations preferred by the petitioners and the proposal was sent up by the ANERT on 22.03.2013 granting promotion to the two employees viz. Shri.Valsaraj and Smt.Kamala Devi under CSIR pattern

in relaxation of the screening and assessment process as provided in the CSIR Rules. Shri.Valsaraj and Smt.Kamala Devi and that they are also entitled to promotion under the CSIR pattern in relaxation to the norms regarding the screening and assessment. Petitioners had approached the Government submitting representations seeking benefits as has been extended to Shri.Valsaraj and Smt.Kamala Devi. It was further stated that the ANERT had approached the Government seeking review of the promotion already granted to Shri.Valsaraj and Smt.Kamala Devi and on that ground petitioners' claim has not been considered.

2. A counter affidavit has been placed on

record by the respondents contending that they are not entitled to promotion under the CSIR pattern without insisting on the screening and assessment process was a judgment-in-personam and as such, the restriction of the benefits to the

petitioners in the earlier writ petitions was perfectly in order. It is stated that the earlier writ petition had been filed in the year 2006 and that the petitioners herein did not take up the matter before the ANERT or the Government. It is stated that

the petitioner in W.P.(C) No.4172/2019 was a petitioner along with Shri.Valsaraj and Smt.Kamala Devi but he did not appear before the Director or the Government as directed in the

judgment and did not raise his claim. It is

contended that he was on leave for long periods i.e. from 25.10.2008 to 28.10.2013, 28.10.2013 to 31.05.2017 and 01.06.2017 to 01.06.2018. It is

contended that after having obtained the judgment

and not pursued the same, the petitioner has now approached this Court after a distance of time claiming that he is entitled to the benefit as has been granted to the persons who had approached the

Government and Director in due time.

With regard to

similarly situated persons and that claim is totally belated.

3. I have considered the contentions advanced. It is apparent that by Ext.P5 order, the benefit of promotion under the CSIR norms has been granted to Shri.Valsaraj and Smt. Kamala Devi. The Government

has ordered that the promotion would be granted w.e.f. the due date in relaxation of the screening and assessment procedure. The petitioners' claim is that they are identically situated to Shri.Valsaraj and Smt.Kamala Devi and that the promotion policy cannot be implemented either by the Government or ANERT to specific employees without considering the

claim of identically situated persons. Raising this claim, they have preferred representations before the Government seeking the benefits as has been granted to similarly situated employees. Ext.P17 is the said representation in W.P.(C) No. 4172 of 2019 and Ext.P9 is the representation in W.P.(C) No. 4225 of 2019.

4. In view of the fact that what is under consideration is promotion of Scientists in the ANERT which is admittedly a public institution, I am of the opinion that the Government is liable to take a uniform decision in the matter. In view of the fact

that the representations are pending before the Government, I do not propose to express any view on

the merits of the claims. Leaving

implementation of uniform policy with regard to the promotion of the employees. Orders should be passed on the representations preferred by the petitioners after hearing the petitioners as well as the ANERT within a period of three months from the date of receipt a copy of this judgment.

Writ Petition is ordered accordingly. Sd/- ANU SIVARAMAN JUDGE kmd
APPENDIX OF WP(C) 4172/2019 PETITIONER'S EXHIBITS: EXHIBIT P1 TRUE COPY OF THE APPOINTMENT ORDER DATED 6.3.1995(AO NO.400/95/ADM). EXHIBIT P2 TRUE COPY OF THE ORDER DATED 23.01.1998, ISSUED BY THE DIRECTOR , ANERT. EXHIBIT P3 TRUE COPY OF AO NO. EXHIBIT P4 TRUE COPY OF THE ORDER DATED 14.07.2014 ISSUED BY THE DIRECTOR. EXHIBIT P5 TRUE COPY OF THE ORDER DATED 23.10.2014. EXHIBIT P6 TRUE ORDER DATED 8.12.2017, ISSUED BY THE DIRECTOR, ANERT. EXHIBIT P7 TRUE COPY OF THE ORDER DATED 16.07.2018 ISSUED BY THE GENERAL MANAGER. EXHIBIT P8 TRUE COPY OF THE JUDGMENT DATED 20.1.2009 IN WPC NO. 28824 OF 2006. EXHIBIT P9 TRUE COPY OF THE ORDER DATED 22.2.2013. EXHIBIT P10 TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER, DATED 15.4.2013. EXHIBIT P11 TRUE COPY OF THE ORDER BY THE GOVERNMENT DATED 22.02.2013. EXHIBIT P12 TRUE COPY OF THE ORDER DATED 24.7.2014. EXHIBIT P13 TRUE COPY OF THE CSIR SCIENTISTS AND RECRUITMENT AND ASSESSMENT PROMOTION RULES, 2001. EXHIBIT P14 TRUE COPY OF THE REPRESENTATION DATED 7.3.2015. EXHIBIT P15 TRUE COPY OF THE LETTER DATED 13.5.2015. EXHIBIT P16 TRUE COPY OF THE ORDER DATED 18.2.2015. EXHIBIT P17 TRUE COPY OF THE REPRESENTATION DATED 07.09.2018 SUBMITTED BY THE PETITIONER. EXHIBIT P18 TRUE COPY OF THE LETTER DATED 29.11.2018 ISSUED BY THE DIRECTOR, ANERT. EXHIBIT P19 TRUE COPY OF THE SUBMISSION DATED 26.12.2018. EXHIBIT P20 TRUE COPY OF THE JUDGMENT IN WPC 37026/18 DATED 16.1.2019. APPENDIX OF WP(C) 4225/2019 PETITIONER'S EXHIBITS: EXHIBIT P1 TRUE

COPY OF THE APPOINTMENT ORDER DATED 06.03.1995 (A0 NO.400/95/ADM). EXHIBIT P2 TRUE COPY OF THE NOTIFICATION ISSUED BY THE NATIONAL INFORMATICS CENTRE DATED 15.6.1995 EXHIBIT P3 TRUE COPY OF ORDER DATED 26.4.2010 EXHIBIT P4 TRUE COPY OF THE JUDGMENT DATED 20.01.2009 IN WP(C)NO.28824 OF 2006. EXHIBIT P5 TREU COPY OF THE ORDER DATED 22.02.2013 EXHIBIT P6 TRUE COPY OF THE ORDER BY THE GOVERNMENT DATED 22.02.2013. EXHIBIT P7 TRUE COPY OF THE ORDER DATED 24.7.2014 EXHIBIT P8 TRUE COPY OF THE CSIR SCIENTISTS AND RECRUITMENT & ASSESSMENT PROMOTION RULES,2001. EXHIBIT P9 TRUE COPY OF THE REPRESENTATION DATED 06.03.2015 EXHIBIT P10 TRUE COPY OF THE LETTER DATED 29.11.2018 ISSUED BY THE DIRECTOR,ANERT EXHIBIT P11 TRUE COPY OF THE SUBMISSION DATED 26.12.2018. EXHIBIT P12 TRUE COPY OF THE JUDGMENT IN WP(C)37026/18 DATED 16.1.2019.

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