

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.J.CHELAMESWAR
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 29TH JULY 2011 / 7TH SRAVANA 1933

WA.No. 1595 of 2007

AGAINST THE JUDGEMENT IN WPC.27731/2005 Dated 12/06/2006
.....

APPELLANTS/NOT PARTIES TO THE WPC:

1. NISHE N.P., SENIOR SUPERINTENDENT,
KERALA STATE ELECTRICITY BOARD,
ELECTRICAL SECTION, THIRUNAVAYA.
2. VARGHESE P.M., SENIOR SUPERINTENDENT,
KERALA STATE ELECTRICITY BOARD,
ELECTRICAL SECTION, PAYYANNUR, KANNUR DISTRICT.

BY ADV. SRI.S.P.ARAVINDAKSHAN PILLAY
SMT.N.SANTHA
SRI.K.A.BALAN
SRI.PETER JOSE CHRISTO
SRI.S.A.ANAND

RESPONDENTS/PETITIONERS & RESPONDENTS:

1. V.V.MUTHUSWAMY, S/O.O.V.VIJAYAN,
AGED 43 YEARS, SENIOR ASSISTANT,
GENERATION CIRCLE,
KERALA STATE ELECTRICITY BOARD,
MOOLAMATTOM, IDUKKI DISTRICT.
2. N.B.SHAJI, SENIOR ASSISTANT,
ELECTRICAL SECTION,
KERALA STATE ELECTRICITY BOARD,
MOOLAMATTOM, IDUKKI DISTRICT.
3. THE STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

4. THE KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY ITS SECRETARY,
PATTOM PALACE P.O., THIRUVANANTHAPURAM.
5. THE KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY,
PATTOM PALACE P.O., THIRUVANANTHAPURAM.
6. THE CHAIRMAN,
KERALA STATE ELECTRICITY BOARD,
VYDHYUTHI BHAVANAM, THIRUVANANTHAPURAM.
7. CHIEF ENGINEER (HRM),
KERALA STATE ELECTRICITY BOARD,
VYDHYUTHI BHAVANAM, THIRUVANANTHAPURAM.
8. SRI.N.K.UDAYABHANU,
SENIOR ASSISTANT,
TRANSMISSION CIRCLE,
KERALA STATE ELECTRICITY BOARD, KANNUR.
9. SRI.C.M.PRAKASHAN, SENIOR ASSISTANT,
TRANSMISSION CIRCLE,
KERALA STATE ELECTRICITY BOARD, KANNUR.
10. SRI.K.P.SANTHOSH KUMAR,
SENIOR ASSISTANT, OFFICE OF THE CHIEF
ENGINEER, (HRM), KERALA STATE ELECTRICITY BOARD,
VYDHYUTHI BHAVANAM, THIRUVANANTHAPURAM-4.
11. SRI.T.V.LAL, SENIOR ASSISTANT,
ELECTRICAL DIVISION,
KERALA STATE ELECTRICITY BOARD,
KOZHIKODE.
12. M.BABU SREEKANTAN,
SENIOR ASSISTANT, OFFICE OF THE CHIEF
ENGINEER, (HRM), KERALA STATE ELECTRICITY BOARD,
VYDYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM-4.

R1 & R2 BY ADV. SRI. V.A. MOHAMMED
R3 BY SENIOR GOVT. PLEADER, SRI.BENNY GERVACIS.
R4 BY ADV.SRI.P.C.SASIDHARAN, SC, KPSC
R5 TO R7 BY SRI.PULIKOOL ABUBACKER, SC, KSEB
R8 TO R12 BY ADV. SRI.N.NANDAKUMARA MENON

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD
ON 29/07/2011, ALONG WITH WA NO. 1600 OF 2007 WA NO. 1601
OF 2007, WA NO. 1692 OF 2007, WA NO. 1727 OF 2007 AND
WA NO. 1834 OF 2007, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

WA.No. 1595 of 2007

APPENDIX

APPELLANTS' EXHIBITS:

ANNEXURE I : TRUE COPY OF THE NOTICE NO.EB3(B)/SA(RE)/2007
DATED 07.05.2007.

ANNEXURE II : TRUE COPY OF THE OBJECTION FILED BY THE 1ST APPELLANT.

/TRUE COPY/

PA TO JUDGE

J. CHELAMESWAR, C.J &
ANTONY DOMINIC, J.

W.A.No. 1595 of 2007,
W.A.No. 1600 of 2007,
W.A.No. 1601 of 2007,
W.A.No. 1692 of 2007,
W.A.No. 1727 of 2007 &
W.A.No. 1834 of 2007

Dated this the 29th day of July, 2011

JUDGMENT

J.Chelameswar, C.J.

All these Writ Appeals raised certain common questions of fact and law.

2. The appellants in all these appeals are employees of the Kerala State Electricity Board, a respondent in each of these appeals. The Kerala Electricity Board decided to fill up certain posts of Senior Assistants some time in the year 1991 and the recruitment was conducted through the Kerala Public Service Commission. Therefore, the P.S.C issued a notification dated 15.2.1991 inviting applications from the eligible candidates. It may be mentioned that the recruitment was confined to the post of Senior Assistants, reserved in favour of candidates belonging to SC/ST categories. Eventually, a ranked

list was published by the P.S.C on 10.2.1995. All the successful candidates, it appears, were advised on 6.4.1995 to report to the employer. In the interregnum between the abovementioned two dates, the Electricity Board promoted a large number of their employees to the posts of Senior Assistants. It appears that though the posts of Senior Assistants in the establishment of the Electricity Board are normally to be filled up by promotion from the feeder category, under Rule 17A of Part-II of the Kerala State and Subordinate Services Rules, 1958, some of the posts of Senior Assistants are reserved to be filled up with the members belonging to SC/ST by the process of direct recruitment.

3. In the interregnum between the two dates referred to above, a large number of persons came to be promoted to the posts of Senior Assistants (appellants herein in all these appeals). Subsequently, it appears that the Electricity Board also published a gradation list of the Senior Assistants referred to above on 1.1.2002. The same came to be challenged before this Court in W.P.(C).No.19047 of 2005. By judgment dated 27.6.2005, this Court set aside the gradation list and directed the Electricity Board to publish a fresh list in accordance with law after taking all the appropriate materials into consideration,

including certain representations made by the employees, the details of which are not necessary. In obedience to the said direction, the Electricity Board issued further order dated 2.9.2005, which once again came to be challenged in a batch of writ petitions, from out of which these appeals arise. By the said judgment, the above mentioned order of the Electricity Board dated 2.9.2005 was set aside and further fresh consideration of the matter was directed.

4. When the matter is taken up today, learned counsel for the appellants Sri.S.P.Aravindakshan Pillay and Sri.Murali Purushothaman submit that the appellants are agreeable for the process of the Electricity Board considering the claims of the appellants as well as the objections of the respondents/writ petitioners, in accordance with law. It is also submitted that consequent to the judgment under appeal, a notice dated 7.5.2007 was issued to all the concerned in the matter and therefore, the Electricity Board may proceed to take a final decision in the back-ground of the abovementioned notice dated 7.5.2007, after hearing all the parties, i.e., the appellants and the respondents/writ petitioners in these matters.

In the circumstances, all these appeals are disposed of directing the Electricity Board to consider the issue as proposed in the abovementioned notice dated 7.5.2007 and pass appropriate orders in accordance with law, after giving a reasonable opportunity to all the affected parties. All the questions of law raised in these matters are left open.

The Writ Appeals are disposed of as above.

J.CHELAMESWAR,
CHIEF JUSTICE

ANTONY DOMINIC,
JUDGE

vgs/vku.