

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 28TH DAY OF FEBRUARY 2013/9TH PHALGUNA 1934

WP(C).No. 24232 of 2006 (I)

PETITIONER(S):

P. JAGANNADHA SARMA,
SPECIAL GRADE SUB-GROUP OFFICER
KULATHUPUZHA PUNALUR GROUP,
TRAVANCORE DEVASWOM BOARD.

BY ADVS.SRI.A.JAYASANKAR
SRI.C.ANIL KUMAR

RESPONDENT(S):

1. TRAVANCORE DEVASWOM BOARD,
REPRESENTED BY ITS SECRETARY, THIRUVANANTHAPURAM.
2. DEVASWOM COMMISSIONER, TRAVANCORE
DEVASWOM BOARD, THIRUVANANTHAPURAM.

R1,2 BY ADV. SRI.NAGARAJ NARAYANAN, SC, TDB
BY ADV. SMT.A.SREEKALA, SC, TRAVANCORE DEVASWOM BOARD
BY SRI.M.K.CHANDRAMOHAN DAS, SC, TDB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
08-11-2012, THE COURT ON 28/02/2013 DELIVERED THE FOLLOWING:

tss

W.P.(C) NO.24232/2006

APPENDIX

PETITIONER'S EXHIBITS:-

P1:- COPY OF THE ORDER DTD. 15.12.88 ISSUED BY THE 1ST RESPONDENT.

P2:- COPY OF JUDGMENT DT.D 1.2.2002 IN OP.2525/1999.

P3:- COPY OF THE PROCEEDINGS ROC NO.1466/88/EST. 1 DTD. 30.9.02 ISSUED BY THE RESPONDENT.

P4:- COPY OF THE SENIORITY LIST OF SUB GROUP OFFICERS PUBLISHED BY THE 2ND RESPONDENT.

P5:- COPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT DTD. 25.4.2003.

P6:- COPY OF THE COMBINED SENIORITY LIST OF THE HEAD CLERKS AND HIGHER GRADE S.G.O.'S AS ON 1.1.94.

P7:- COPY OF THE REPRESENTATION DT. 20.5.05 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

P8:- COPY OF THE ORDER R.O.C. 956/88/EST. DTD. 8.3.06 ISSUED BY THE 2ND RESPONDENT.

P9:- COPY OF THE JUDGMENT DTD. 4.7.06 IN WP(C) 15928/2006.

P10:- COPY OF THE NOTICE DTD. 7.8.06 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

P11:- COPY OF THE EXPLANATION DTD. 11.8.06 SUBMITTED BY PETITIONER BEFORE THE 2ND RESPONDENT.

P12:- COPY OF THE ORDER R.O.C.1466/88/EST.1.DTD. 26.8.06 ISSUED BY THE 2ND RESPONDENT.

P13:- COPY OF LETTER DTD. 13.4.2010 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS:-

NIL

//TRUE COPY//

P.S. TO JUDGE

tss

A.M.SHAFFIQUE, J

*** * * * ***

W.P.C.No.24232 of 2006

Dated this the 28th day of February 2013

J U D G M E N T

The petitioner challenges Exts.P5 and P12 orders. Ext.P5 is the proceedings of the Devaswom Commissioner, 2nd respondent herein rejecting the claim for monetary benefit for the promotion granted to the petitioner with retrospective effect. Ext.P12 is the order passed by the 1st respondent in that regard.

2. The factual situation involved in the case would show that the petitioner joined the service of the respondent as Santhikkaran on 01/01/1973. He was promoted as 'II Grade Sub Group Officer on 11/9/1980 and I Grade Sub Group Officer on 01/11/1987. While so, disciplinary action was taken alleging his involvement in felling and removal of two trees belonging to Devaswom. He was reverted to the rank of II Grade Sub Group Officer for a period for three years. He challenged the order of punishment before this

Court and as per Ext.P2 judgment the 2nd respondent was directed to consider the appeal and pass a speaking order, pursuant to which the punishment of reversion was cancelled and his two increments were barred with cumulative effect.

3. The complaint of the petitioner is that when he was promoted to the post of 1st grade Sub Group Officer, he was placed as Sl.No.67 in the seniority list. After the completion of disciplinary proceedings he was given promotion to the post of Higher Grade Sub Group Officer by promoting him retrospectively with effect from 01/12/1993 as per Ext.P5 order dated 25/04/2003, fixing his rank in the combined seniority list below Sri.K.G.Ravikumar and above Sri.R.B.Sreekantan Nair. He was also denied the monetary benefits for the promotion granted with retrospective effect. According to the petitioner, in effect his seniority in the list was the 96th position. According to him, he was entitled to get promotion as Higher Grade Sub Group Officer with effect

from 01/05/1992 and not from 01/12/1993 and many of his juniors were placed before him due to wrong fixation of seniority position. As a result, his subsequent promotions were also delayed. He submitted a representation to the 2nd respondent for rectifying the said mistake which was rejected as per Ext.P8. He filed W.P.C.No.15928 of 2006 which was disposed as per Ext.P9 judgment dated 04/07/2006 directing the 1st respondent to consider his representation which resulted in Ext.P12 order.

4. Counter affidavit is filed by the respondent inter alia contending that the rank of the petitioner was fixed in the gradation list of 15/7/1988 based on the rank of his immediate junior R.B.Sreekantan Nair who is at Serial no.68. There was an integration of the ministerial section as well as Sub Group Officers on 01/01/994 and a combined seniority list of Upper Division Clerk/First Grade Sub Group Officers was prepared. The first name in the said list was R.B.Sreekantan Nair and the last name was K.G.Ravikumar.

Sri.K.G.Ravikumar was promoted on 01/12/1993 as Higher Grade Sub Group Officer. It is based on the said date that the petitioner was given promotion as Higher Grade Sub Group Officer with retrospective effect fixing his seniority just below Sri.K.G.Ravikumar and just above Sri.R.B.Sreekantan Nair who was promoted as Head Clerk on 19/02/1994. It is further contended that the petitioner is not entitled to get promotion on the date of promotion of his immediate senior. The petitioner can get promotion only on the date of promotion of his immediate junior R.B.Sreekandan Nair who was promoted only on 19/02/1994. If he was not promoted, he would have been promoted only on 19/02/1994. In regard to his promotion to the post of next cadre it is contended that petitioner is entitled to be promoted as Head Clerk only with effect from 03/11/2001 and the promotion claimed by him is not allowable as per Rules.

5. Petitioner has filed a reply affidavit inter alia contending that the contentions urged by the respondents was not correct. It is contended in the reply affidavit that Sri.K.G.Ravikumar lost his position on account of getting involved in a disciplinary action and the process by which the petitioner was denied seniority was absolutely wrong.

6. Heard learned counsel for the petitioner and the learned counsel for the respondent.

7. The petitioner while challenging Exts.P5 and P12 also seeks for the 69th position in Ext.P6 seniority list. Ext.P6 is the seniority list prepared as on 01/01/1994. Petitioner's claim is based on the seniority list published on 15/7/1988 wherein his place was 67 in between S.Chandra Babu and R.B.Sreekandan Nair. It is the contention of the petitioner that persons ranked as 66, 70, 71 and 72 in Ext.P4 rank list were promoted to the post of Higher Grade Sub Group Officer with effect from 01/05/1992 and were ranked as 68,69,70 and 76.

8. But the fact remains that the reversion of the petitioner was set aside only by Ext.P3 proceedings dated 30/09/2002. It is clearly clarified by the respondents in their counter affidavit that rank of the petitioner was fixed based on the rank of his immediate junior R.B.Sreekandan Nair. If we look at Ext.P4, R.B.Sreekandan Nair is at serial No.68 and the petitioner is at serial No.67. The petitioner is placed below K.G.Ravikumar who was promoted on 01/12/1993 whereas R.B.Sreekandan Nair was promoted only on 01/01/1994.

9. The respondent has also in their counter affidavit explained the situation. There was an integration of the ministerial section as well as Sub Group Officers as on 01/01/1995 and therefore a combined seniority list was prepared. The last person in the gradation list of Higher Grade Sub Group Officer was K.G.Ravikumar who was promoted only on 01/12/1993. When Ext.P3 order came to be passed Sri.R.B.Sreekandan Nair who was his immediate

junior was promoted as Head Clerk only on 19/02/1994. Therefore petitioner cannot seek any rights to get a promotion with effect from 01/05/1992. By doing such a process, he will be placed much above the persons who are already seniors to him. Under such circumstances, I do not think that the claim of the petitioner is justified.

10. In regard to the claim for monetary benefits, it is the settled law that a person who had not worked in the said position is not entitled for any monetary benefits.

In the result, the writ petition is dismissed.

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

