

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE SMT. JUSTICE P.V.ASHA

THURSDAY, THE 31ST DAY OF OCTOBER 2019 / 9TH KARTHIKA, 1941

WP(C).No.4237 OF 2014(D)

PETITIONER:

BIJOU VARGHESE
AGED 48 YEARS
S/O. LATE C.V. VARGHESE, HEAD CLEDRK,
OFFICE OF THE ASSISTANT EXECUTIVE ENGINEER,
KERALA WATER AUTHORITY, WATER WORKS SUBDIVISION,
PALLIMUKKU, ERNAKULAM, RESIDING AT CHAKKALAYIL,
NEDUMON.P.O., PATHANAMTHITTA-691556.

BY ADV. SRI.R.SANJITH

RESPONDENTS:

- 1 THE STATE OF KERALA
WATER RESOURCES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695001. REPRESENTED BY ITS
SECRETARY.
- 2 KERALA WATER AUTHORITY
HEAD OFFICE, JALABHAVAN, VELLAYAMBALAM,
THIRUVANANTHAPURAM-695033. REPRESENTED BY THE
MANAGING DIRECTOR.
- 3 THE DEPUTY CHIEF ENGINEER
KERALA WATER AUTHORITY, THIRUVANANTHAPURAM-695033.
- 4 VENU.C.N.
JUNIOR SUPERINTENDENT, PUBLIC HEALTH DIVISION, KERALA
WATER AUTHORITY, KOZHIKODE-673001.

ADV.SRI.GEORGE MATHEW, SC, KERALA WATER AUTHORITY
ADV.SRI.P.BENJAMIN PAUL, SC, KERALA WATER AUTHORITY

ADV.SRI.BIJOY CHANDRAN, SR.GOV'T.PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
31.10.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The writ petition was filed at the time when the respondent granted promotion to the fourth respondent as Junior Superintendent while denying the same to the petitioner.

2. The petitioner while challenging the said promotion, prayed that the Water and Waste Water Authority Administrative, Ministerial and grade Services Rules, 1986 shall be applied in this case giving him due protection.

3. It is stated that during the

pendency of the writ petition, the petitioner was granted promotion as Junior Superintendent and thereafter, the seniority was also determined on the basis of such promotion. It is stated that he was granted promotion as Divisional Accountant also. It is stated that the seniority in the category of Divisional Accountant and his seniority vis a vis the fourth respondent are yet to be fixed. Even before filing this writ petition, the petitioner had submitted Exhibit.P4 representation requesting for re-fixation of his seniority. It is pointed out that the petitioner was

granted promotion as Divisional Accountant subsequent to the submission of Ext.P4 representation. In I.A.No.18176/2016, this Court passed an interim order making it clear that the promotion, if any, granted to the fourth respondent to the post of Divisional Accounts Officer would be subject to result of the writ petition.

4. Even though notice in the writ petition is seen served on the fourth respondent, there is no appearance for the fourth respondent.

5. The learned counsel for the petitioner pointed out that the case

of the petitioner is liable to be considered in the light of the judgment of the Division Bench in Writ Petition No.32362/2017. In paragraph 13 of that judgment, this Court directed the Water Authority to take a decision on the entitlement of various employees for promotion as per the 2011 Rules, as amended in the 2016 Rules and also allowed the petitioner to approach the Government for concurrence or permission for this purpose.

6. The claim of the petitioner for promotion as Divisional Officer in preference to fourth respondent

shall therefore be considered by the second and third respondents in tune with the observations contained in judgment dated 12.10.2018 in WP (C) No.32362/2017 in accordance with law, within a period of two months from the date of receipt of a copy of this judgment.

SD/-

P.V.ASHA
JUDGE

ACM/31.10.2019

APPENDIX

PETITIONER'S/S EXHIBITS:

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| EXHIBIT P1 | P1. TRUE COPY OF THE ORDER DATED 16-1-2014 BEARING NO. KWA/JB/E9 4293/07 OF THE 3RD RESPONDENT. |
| EXHIBIT P2 | P2. TRUE COPY OF THE RELEVANT PAGES OF THE KERALA WATER AUTHORITY (ADMINISTRATIVE, MINISTERIAL AND LAST GRADE) SERVICE RULES, 2011. |
| EXHIBIT P3 | P3. TRUE COPIES OF THE RELEVANT PAGES OF THE WATER AND WASTE WATER AUTHORITY ADMINISTRATIVE, MINISTERIAL AND GRADE SERVICES RULES, 1986. |
| EXHIBIT P4 | P4. TRUE COPY OF THE REPRESENTATION DATED 3-1-2014 ALONG WITH POSTALRECEIPT AND ACKNOWLEDGEMENT CARD. |
| EXHIBIT P5 | TRUE COPY OF THE ORDER DATED 21.3.2016 BEARING NO.KWA/HO/E9/3483/2012 |
| EXHIBIT P6 | TRUE COPY OF THE REPRESENTATION DATED 7.10.2016 SUBMITTED BY THE PETITIONER. |
| EXHIBIT P7 | TRUE COPY OF THE ORDER DATED 29/01/2015 BEARING NO.KWA/JB/E9/4293/07 |