

IN THE HIGH COURT OF KERALA AT ERLAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

TUESDAY, THE 31ST DAY OF AUGUST 2021 / 9TH BHADRA, 1943

WP(C) NO. 12303 OF 2021

PETITIONER/S:

- 1 PADMANABHAN @ PAPPU
AGED 61 YEARS
S/O. KRISHNANKUTTY, PUZHASSERY HOUSE, P.O. PURATHOOR,
MALAPPURAM-676102.
- 2 C.V.BABU,
AGED 52 YEARS
S/O. C.J.VARGHESE, CHUNGATH HOUSE, P.O. CHALISSERY,
PALAKKAD-679536.
BY ADVS.K.R.AVINASH (KUNNATH)
ABDUL RAOOF PALLIPATH
M.K.SUMOD
E.MOHAMMED SHAFI
RAJ CAROLIN V.

RESPONDENT/S:

- 1 THE SECRETARY
MINISTRY OF LABOUR AND EMPLOYMENT, GOVERNMENT OF INDIA,
SHRAMAJEEVI BHAVAN, RAFI MARG, NEW DELHI-110001.
- 2 THE NEW MANGALORE PORT LISTED WORKERS-MANAGING
COMMITTEE,
REPRESENTED BY ITS SECRETARY, PANAMBUR, MANGALORE-
575010.
- 3 CHAIRMAN,
THE NEW MANGALORE PORT TRUST, PANAMBUR, MANGALORE-
575010.
BY ADVS.
M.GOPIKRISHNAN NAMBIAR
KURYAN THOMAS
K.JOHN MATHAI
JOSON MANAVALAN
PAULOSE C. ABRAHAM
RAJA KANNAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
31.08.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Petitioners have approached this Court with the following prayers:

- i) Declare that the petitioners are entitled to be accommodated in the employment of loading and unloading workers in Mangalore Port Trust being the employees under the New Mangalore Port Listed Workers Managing Committee.
- ii) Declare that the petitioners are entitled for an adequate compensatory measure in alternative of employment in the new Mangalore Port Trust being the workers under the new Mangalore Port Listed Workers Managing Committee.
- iii) Issue a writ of mandamus or such other writ, order or direction commanding the 1st respondent-Secretary, Ministry of Labour and Employment, Government of India to consider and take an appropriate decision in the grievance of the petitioners represented by Ext.P6 and P7 within such appropriate time limit fixed by this honourable court.

2. I have heard Adv.K.R.Avinash, the learned counsel appearing for the petitioners as well as Adv.M.Gopikrishnan Nambiar, on behalf of R3 and ASGI on behalf of the 1st respondent.

3. The writ petition mainly project petitioners claim for employment under the 2nd respondent. Petitioners allege that they along with 19 others were excluded from employment from the New Mangalore Port Listed Workers Managing Committee to which they were absorbed into. According to the petitioners, though agreements were arrived at to reinstate all 21 workers, they were not issued with work tokens to enter into the New Mangalore Port.

4. It is also stated that though a dispute was raised before the Assistant Labour Commissioner, the New Mangalore Port List Workers Managing Committee took a volte-face resulting in the Labour Commissioner

holding that there were no grounds to make a reference. Though petitioners approached several governmental authorities they could not taste success. Finally the New Mangalore Port Trust issued Ext.P3 on 21.06.2017 denying the claim of the petitioners for getting permanent labour passes due to the absence of any evidence for showing petitioners working either under Stevedores Association or under listed workers Managing Committee. Petitioners claim that they have filed representations thereafter to the 1st respondent through Ext.P6 and Ext.P7.

5. Petitioners are claiming appointment or engagement as workers under 2nd and 3rd respondents. Both those respondents are situated in Mangalore, outside the territory of Kerala. Place of residence or business of the respondents can confer jurisdiction. Place of residence of petitioners cannot confer

jurisdiction. No part of the cause of action has arisen in Kerala. The jurisdiction of this Court is within the limits of the territory of Kerala whereas the 2nd respondent is situated in Karnataka. Therefore, this writ petition is not maintainable in Kerala.

6. The representations alleged to have been filed as Ext.P6 and Ext.P7 are not statutory representations. Hence, those representations will not confer jurisdiction to this Court.

7. Accordingly, I am of the view that this writ petition is not maintainable before this Court. Reserving liberty of the petitioners to move the appropriate jurisdictional Court, this writ petition is dismissed.

Sd/-

**BECHU KURIAN THOMAS,
JUDGE**

APPENDIX OF WP(C) 12303/2021

PETITIONER EXHIBITS

Exhibit P1 TRUE COPY OF THE REQUEST LETTER DATED 29.7.1986 ISSUED BY THE SECRETARY, THE NEW MANGALORE PORT LISTED WORKERS MANAGING COMMITTEE.

Exhibit P2 TRUE COPY OF THE COVERING LETTER NO.PMOPG/D/2015/0192070 DATED 20.8.15 ISSUED FROM THE HON. PRIME MINISTER'S OFFICE.

Exhibit P3 TRUE COPY OF THE LETTER NO.RCHW/PP/2015-C-6 DATED 21.6.2017 ISSUED BY THE TRAFFIC MANAGER- NEW MANGALORE PORT TRUST.

Exhibit P4 TRUE COPY OF THE REPRESENTATION DATED 30.6.2017 SUBMITTED BY THE PETITIONERS TO THE CHAIRMAN- NEW MANGALORE PORT TRUST.

Exhibit P5 TRUE COPY OF THE REPRESENTATION DATED 15.12.2018 SUBMITTED BY THE PETITIONERS TO THE CHAIRMAN- NEW MANGALORE PORT TRUST & THE SECRETARY-THE NEW MANGALORE PORT LISTED WORKERS MANAGING COMMITTEE.

Exhibit P6 TRUE COPY OF THE REPRESENTATION DATED 20.12.2019 SUBMITTED BY THE PETITIONERS TO THE SECRETARY, MINISTRY OF LABOUR AND EMPLOYMENT, GOVERNMENT OF INDIA.

Exhibit P7 TRUE COPY OF THE REMINDER DATED 17.12.2020 SUBMITTED BY THE PETITIONERS TO THE SECRETARY, MINISTRY OF LABOUR AND EMPLOYMENT, GOVERNMENT OF INDIA.

RESPONDENTS EXHIBITS : NIL

TRUE COPY P.A. TO JUDGE