

(2010) 08 KL CK 0017
In the High Court Of Kerala
Case No : WA. No. 1078 of 2010

State of Kerala, The Chief Engineer (Administration) and The Executive Engineer, Irrigation APPELLANT

Vs

Bhagyam and Veeramma RESPONDENT

Date of Decision : 20-08-2010

Acts Referred:

Citation : (2010) 08 KL CK 0017

Hon'ble Judges : Jasti Chelameswar, C.J;P.N.Ravindran, J

Bench : Division Bench

Advocate : Government Pleader, for the Appellant; P. Ravindran, for the Respondent

Judgement

P.N. Ravindran, J.—The Appellants are the Respondents in W.P.(C) No. 34359 of 2004. The Respondents are the Petitioners therein. The brief facts of the case are as follows.

2. The Respondents herein were employed as CLR (Casual Labour Roll) workers for construction of the Malampuzha Dam and canals during the period 1967-1978. By Ext.P1 order dated 20.1.1990, the Government recognised the right of CLR workers who have put in 500 days of service before 19.5.1983 for absorption into regular service. Such of those CLR workers who had not put in 500 days of service before 19.5.1983 were to be absorbed as SLR (Seasonal Labour Roll) workers. The Government had also fixed 31.7.1992 as the cut of date to submit applications claiming the benefit of Ext.P1 order.

3. The Respondents herein submitted applications for absorption in service within the said time, viz., on 18.4.1992. But the applications reached the Government only after 31.7.1992. Their application for absorption into regular service were therefore rejected. The Respondents thereupon filed O.P. No. 5182 of 1998 in this Court. By Ext.P2 judgment delivered on 11.1.2002, a learned single Judge of this Court interfered with the order passed by the Government rejecting the applications filed by the Respondents and directed reconsideration of their

applications for regularisation. The Government thereupon passed Ext.P3 order directing absorption of the Respondents and three others in service as SLR workers. The Executive Engineer, Irrigation Department, Malampuzha, thereafter issued Ext.P4 order dated 1.1.2003 giving effect to the decision of the Government. However, the Respondents were absorbed as SLR workers only with effect from the date on which they joined duty pursuant to Ext.P4. Claiming regularisation as SLR workers with effect from 31.7.1992, they filed Ext.P5 representation on 29.10.2004 before the Government. The instant writ petition was thereafter filed, seeking a direction to the Appellants to absorb the Respondents into regular service with retrospective effect from 13.4.1992.

4. The Appellants resisted the writ petition contending that Respondents can claim absorption into service only with effect from the date of Ext.P4, viz., 1.1.2003. The learned single Judge relying on the decision of this Court in W.P. (C) No. 30320 of 2004 held that the regularisation of the Respondents shall take effect from 1.11.1992 with consequential benefits, if any. Aggrieved thereby, the Appellants have preferred this appeal.

5. We heard Sri. Benny Gervacis, the learned Senior Government Pleader appearing for the Appellants and Sri.P. Ravindran, the learned Senior counsel appearing for the Respondents. We have also gone through the pleadings and materials on record. The learned Senior Government Pleader for the Appellants contended that the judgment in W.P.(C) No. 30320 of 2004 relied on by the learned Single Judge has been modified by a Division Bench of this Court in W.A. No. 2625 of 2007, wherein the Division Bench of this Court directed that the absorption of the Petitioner in that writ petition shall be given effect from the date on which another worker similarly placed was absorbed as SLR worker, after 31.7.1992. A copy of the judgment in W.A. No. 2625 of 2007 was made available to us for perusal. We have gone through the same.

6. It is an admitted fact that it was relying on the decision in W.P.(C) No. 30320 of 2004 that the instant writ petition was allowed. In view of the decision of the Division Bench of this Court in W.A. No. 2625 of 2007, whereby the decision of the learned single Judge in W.P.(C) No. 30320 of 2004 was modified, the relief granted in the instant writ petition also requires to be suitably modified. The learned Counsel for the Respondents does not dispute the said preposition. In such circumstances, we modify the judgment of the learned single Judge and direct that Ext.P3 Government order and Ext.P4 order issued by the 3rd Appellant shall take effect from the date on which CLR workers similarly placed as the Respondents and having the same length of CLR service before 19.5.1983 were absorbed as SLR workers after 31.7.1992. Needless to say, the Respondents will be entitled to all consequential benefits from that date, except payment of arrears of salary. The Respondents will be entitled to receive salary and allowances applicable to SLR workers only with effect from the date of Ext.P4. A decision in that regard shall be taken and orders passed within three months from the date on which Respondents produce a certified copy of this

judgment before the second Respondent.

The writ appeal is disposed of with the above observations.