
(2015) 01 KL CK 0226

In the High Court Of Kerala

Case No : R.P. No. 930 of 2014 (J) in W.P.(C) No. 18898 of 2013

Udayakumar C. and Others

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 09-01-2015

Acts Referred:

Citation : (2015) 01 KL CK 0226

Hon'ble Judges : K. Vinod Chandran, J

Bench : Single Bench

Advocate : K.S. Madhusoodanan, Thomas Chazhukkaran, M.M. Vinod Kumar, P.K. Rakesh Kumar and K.S. Mizver, for the Appellant; R. Ranjith, Govt. Pleader, Advocates for the Respondent

Final Decision : Dismissed

Judgement

K. Vinod Chandran, J—The petitioners have approached this Court with a review, on the ground that Annexure-II judgment in fact granted similar benefits to similarly placed employees and there should be review of the directions in paragraph 2 in the present writ petition. The revision sought is for a positive direction to the respondents to grant the benefits already granted as per Annexure-II; to the petitioners also.

2. The issue relates to grant of higher grade and a Union of employees had approached this Court with a writ petition numbered as W.P. (C) No. 14388 of 2009, which was disposed of by Annexure-II judgment on 12.08.2009. This Court found that there are some inconsistencies in the matter of payment of salary and other service benefits and it was declared that the second petitioner and the other persons in Ext. P1 list, produced therein, would have to be granted grade promotion w.e.f. 01.05.2006 and will be entitled to payment of arrears consequent of grade promotion, with effect from that date.

3. It is pertinent that the petitioners herein, who claim to be similarly placed employees, even at that point of time had not approached this Court and no

claim was made with respect to similar treatment within a reasonable period. Annexure-II judgment is dated 12.08.2009, the petitioners have chosen to file a writ petition only in 2013. Further when the hearing was proceeded with, Annexure-II judgment was not at all brought to the notice of this Court. There is also no explanation offered as to why Annexure-II was not pointed out to this Court, at the time of hearing.

4. This Court merely directed that the arrears if granted, to all other similarly placed employees, then the petitioners also would be entitled for the same. The petitioners herein cannot claim that, Annexure-II should be made applicable to the petitioners also, since, this Court in Annexure-II had specifically confined the relief to the second petitioner therein and the persons mentioned in Ext. P1 list. The claim raised in the writ petition is grossly belated too.

5. The learned Counsel for the respondent Corporation submits that as a matter of fact, the amounts as directed in Annexure-II have not been paid to all the employees, who were included in Ext. P1 list in that case. The bad financial situation of the respondent is pointed out to justify the non-disbursal of benefits; which even all the employees covered by Annexure-II is yet to be paid, is the contention. In any event this Court is now not concerned with the compliance of Annexure-II. The petitioners' entitlement was considered and directions issued, which direction is now sought to be modified. When the parties to Annexure-II have also not been paid the arrears, there cannot be any superior claim for the petitioners who have not chosen to challenge the alleged denial of benefits, promptly and within a reasonable time. In any event, this Court does not find any grounds for review as held in *The State of West Bengal and Others Vs. Kamal Sengupta and Another*, (2008) 8 JT 317 : (2008) 8 SCC 612 : (2008) 2 SCC(L&S) 735 : (2008) 3 SLJ 209 : (2009) 2 SLR 482 .

The review petition hence would stand dismissed.